

# Licensing Requirements for Residential Child Care Facilities



**OKLAHOMA**  
Human Services

**Effective Date 11/1/2020**

## FOREWORD

Licensing requirements govern child care facilities in the State of Oklahoma. These rules are minimum requirements for the care and protection of children in care outside their own homes. They were developed by Oklahoma Department of Human Services (DHS) Child Care Services with input from individuals from various professions with expertise in child care, including providers; the Child Care Advisory Committee; and the public. The requirements were approved by the DHS Director and the Governor of the State of Oklahoma pursuant to the Oklahoma Administrative Procedures Act.

It is the intent of DHS that licensing requirements are clear, reasonable, fair and enforceable. In the interest of serving the public, comments are welcomed and will be considered for future revisions or development of new requirements. Please complete the form below and send it to:

Oklahoma Department of Human Services  
Child Care Services  
P.O. Box 25352  
Oklahoma City, OK 73125

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### COMMENTS REGARDING LICENSING REQUIREMENTS

Licensing Requirements for: \_\_\_\_\_

Reference: *Please give the cite and topic of the specific requirement to which you are referring, such as Section 146, regarding (re.) Definitions.*

- Section \_\_\_\_\_ re: \_\_\_\_\_
- Section \_\_\_\_\_ re: \_\_\_\_\_

Recommendation:  
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\_\_\_\_\_

Reason:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Your Name \_\_\_\_\_ Date \_\_\_\_\_

*Return Address:* Oklahoma Department of Human Services  
Child Care Services  
P.O. Box 25352  
Oklahoma City, OK 73125  
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**REQUIREMENTS FOR RESIDENTIAL FACILITIES  
(340:110-3-145 THROUGH 340:110-3-109)**

# REQUIREMENTS FOR RESIDENTIAL FACILITIES

(340:110-3-145 THROUGH 340:110-3-170)

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## PART 9. REQUIREMENTS FOR RESIDENTIAL CHILD CARE FACILITIES

### Section 145. Purpose and policy of the law

It is the declared purpose and policy of the Oklahoma Child Care Facilities Licensing Act [10 O.S. § 401 through 410] to ensure maintenance of minimum standards for the care and protection of children away from their own homes, to encourage and assist the child care facility to attain maximum standards, and to work for the development of sufficient and adequate services for child care.

### Section 146. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly states otherwise:

**"Advisory board"** means the entity offering advice and counsel on program operation.

**"Age or developmentally appropriate"** means per Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) suitable, developmentally appropriate activities for children of a certain age or maturity level based on the development of cognitive, emotional, physical, and behavioral capacities typical for the age group and the individual child.

**"Basement"** means an area of a building or structure having one-half or more of its clear height below grade level.

**"Behavior management"** means guidance providing a learning experience for the child contributing to developing the capacity for self-control, self-direction, and understanding of behavioral consequences.

**"Chemical restraint"** means medication prescribed by a health professional used to control behavior or to restrict freedom of movement and is not a standard treatment for the child's medical or psychiatric condition.

**"Child"** means an individual younger than 18 years of age.

**"Child care personnel"** means personnel, including part-time, on-call, and substitute personnel, providing direct care and supervision of residents. To be counted in ratios, personnel must be engaged in providing care and meeting the minimum qualifications.

**"Children's services"** means an educational program, child welfare agency, child-serving institution, child-placing agency, foster family home, hospital, or mental health treatment program serving children.

**"Children's shelter"** means a non-secure public or private residential program providing temporary care and supervision for children.

**"Contracted personnel"** means individuals performing program services not having an employee relationship with the program.

**"Custodian"** means the adult or agency legally responsible for the child, but does not mean the Oklahoma Department of Human Services (DHS).

**"Department"** means DHS.

**"Family-style living program"** means a residential program providing sustained care and supervision to residents in a home like environment not located in a building used for commercial activity.

**"Food"** means a raw, cooked, or processed edible substance, ice, beverage, or



ingredient used or intended for use in whole or in part for human consumption.

**"Governing board"** means the entity with ultimate responsibility and authority for overall operation of a private, nonprofit program.

**"Grievance process"** means an identified procedure followed when a parent, child, or individual acting in the child's behalf, desires to document dissatisfaction regarding program operation.

**"Health care professional"** means a licensed physician, nurse practitioner, or physician's assistant, as defined by the appropriate state licensing board.

**"House parent"** means an individual or couple providing care and supervision, while meeting the physical, emotional, and social needs of residents residing in a family-style living program.

**"Interstate Compact on the Placement of Children (ICPC)"** means the process of ensuring protection and services to children placed across state lines.

**"Licensed mental health professional"** means an individual possessing the training, qualifications, and professional recognition in a mental health-related field having a license issued by the appropriate state board.

**"Licensed social worker"** means a social worker having a license issued by the State Board of Licensed Social Workers.

**"Licensing requirements for residential child care facilities"** means the regulations specified in this Part constituting the minimum requirements for residential programs.

**"Mechanical restraint"** means a device restricting movement or function of a child or portion of a child's body.

**"On-call," or "substitute personnel"** means personnel available to work during the absence of regular part-time or full-time personnel.

**"Organizational structure"** means the program legal basis or ownership.

**"OSDH"** means the Oklahoma State Department of Health.

**"Parent"** means an individual legally responsible for the child, such as a mother, father, legal custodian, or legal guardian.

**"Physical restraint"** means using the body to restrict movement or function of a child or portion of a child's body.

**"Potentially hazardous foods"** means food containing milk or milk products, eggs, meat, poultry, fish, shellfish, crustacean, or other ingredients in a form capable of supporting rapid and progressive growth of harmful microorganisms.

**"Privately operated program"** means a program owned and operated by an individual, partnership, corporation, or association that may be operated on a profit or nonprofit basis.

**"Proprietary program"** means a program operating on a for-profit basis.

**"Psychotropic medications"** means medications with well-demonstrated efficacy in the treatment of mental disorders through the modification of behavior, mood, and emotions.

**"Publicly operated program"** means a program operated by a governmental entity.

**"Qualified Substance Abuse Professional (QSAP)"** means an individual meeting the criteria established by the Oklahoma Department of Mental Health and Substance Abuse Services.

**"Reasonable and prudent parent standard"** means per 10A O.S. § 1-1-105, the standard characterized by careful and sensible parental decisions maintaining the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child and is used in determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities. This standard is used by a representative of a group home where a child has been placed or a designated official for a residential child care facility where a child in foster care has been placed.

**"Regimented residential program"** means a military-style training program where residents are subject to a controlled and regimented environment affirming dignity of self and respect for others and includes physical training and discipline.

**"Restricted Registry," also named "Joshua's List"** means a registry for individuals who are prohibited from licensure, ownership, employment, having unsupervised access to children, and/or residence in child care facilities per 10 O.S. § 405.3.

**"Residential child care facility"** means a 24-hour residential program where children live together with, or are supervised by, adults other than the child's parents or relatives.

**"Residential treatment facility"** means a program that cares for children under 24-hour medical care who have emotional, psychological, or mental disorders.

**"Seclusion"** means the involuntary confinement of a child in a room or area where the child is physically prevented from leaving.

**"Secure care facility"** means a program that cares for and supervises adjudicated children in a building where entering and exiting is prohibited through the use of internal or external locks or through secure fencing around the perimeter.

**"Separation"** means removing a child from the group or group activity as a method of behavior management.

**"Serious incident"** means any non-routine occurrence that has an impact on the care, supervision, or treatment of a child.

**"Service plan"** means a comprehensive individualized program of action based on the child's needs.

**"Social services"** means services that may include, but are not limited to, admission assessments, placement services, counseling, casework services to residents and the residents' families, service planning, and discharge planning.

**"Social services staff"** means program employees who provide social services.

**"Specialized service professional"** means an individual from an academic discipline or field of expertise who provides individualized services to a child, such as behavioral or physical therapists.

**"Staff member"** means an individual employed by or working for or with a residential child care facility on a regularly scheduled basis. This includes full-time, part-time, on-call, and substitute staff, whether paid or unpaid.

**"Supervision of residents"** means overseeing and guiding residents including awareness of and responsibility for the ongoing activity of each child.

**"Support staff"** means clerical staff, cooks, building custodians, and other personnel who provide support services to the program.

**"Unsupervised access to children"** means an individual being present with children without personnel present who has a complete criminal history review.

**"Volunteer"** means an individual who provides services to the program without compensation.

### **Section 147. License**

Request for license is submitted on Oklahoma Department of Human Services (DHS) provided forms. A license to operate a residential child care program is granted when the program meets minimum requirements. Children are not accepted into care until DHS authorization is obtained. The license is not transferable and is posted prominently in the facility including the denial or revocation notice, when applicable. When the program changes ownership or location, a new license is obtained. Per the Oklahoma Child Care Facilities Licensing Act, Section 405.3 of Title 10 of the Oklahoma Statutes, persons identified as registrants on the Restricted Registry are prohibited from:

- (1) licensure as a child care program;
- (2) ownership of a child care program;
- (3) employment in a child care program;
- (4) having unsupervised access to children; and/or
- (5) residing in a child care facility.

### **Section 148. Technical assistance**

In addition to monitoring compliance with requirements, licensing representatives offer technical assistance and consultation. An applicant or licensee may at any time request help with questions about the requirements or facility compliance.

### **Section 149. Complaint investigation**

Upon receipt of a complaint that a facility is in noncompliance with requirements, the licensing representative notifies the administrator of the facility and conducts a thorough investigation. The name of the complainant is kept confidential. The administrator of the facility and the chair of the governing board are advised of the outcome of the investigation. Allegations of child abuse, neglect, or mistreatment are investigated by the Office of Client Advocacy or its designee.

### **Section 150. Denial or revocation of license**

When a program is unable or unwilling to comply with requirements or has failed to adequately protect the health and safety of children, the Oklahoma Department of Human Services (DHS) can deny the application or revoke the license. The applicant or licensee receives a 30 day notice in writing of the decision and the grounds for such proposed action. The applicant or licensee may protest the decision within 30 days of receipt of the notice. An administrative hearing will be held at which an opportunity is given to the applicant or licensee to present testimony and confront witnesses. If the decision from the administrative hearing is to uphold the DHS recommendation, the applicant or licensee may appeal the decision to the district court of the county where the program is maintained within 10 days. In the event the applicant or licensee does not appeal the decision, the program must cease operation on the effective date of the action. The owner, business entity, or responsible entity may not make application for a new child care program license within Oklahoma for five years following notification to the owner, business entity, or responsible entity of the license revocation or denial and during the appeal process.

**Section 151. Public records**

Files of residential child care facilities maintained by OKDHS are public records and are open for public inspection. [Oklahoma Public Records Act, 51 O.S. § 24A et seq.] Information obtained by OKDHS from any applicant or licensee regarding children, their parents, or other relatives is deemed confidential and privileged communication. The names of any complainants and information regarding a child abuse report or investigation is kept confidential.

## **Section 152. Organization and administration**

(a) **Intent statement.** The residential child care program purpose or function is clearly defined in a statement filed with the Oklahoma Department of Human Services (DHS).

The statement includes the:

- (1) program philosophy;
- (2) program goals and objectives;
- (3) ages and characteristics of children accepted for care;
- (4) geographical area served; and
- (5) services provided.

(b) **Organizational structure.** The residential child care program legal basis or ownership is fully documented and submitted to DHS.

(1) **Publicly operated program.** Documentation identifies the program's statutory basis and the operating governmental entity administrative framework.

(2) **Privately operated program.** A privately operated program submits, the:

(A) charter, partnership agreement, constitution, articles of incorporation, or resolution authorizing the program's operation, as applicable; and

(B) names, titles, addresses, and phone numbers for:

(i) association members or corporate officers for a nonprofit program; and

(ii) owners, partners, or corporate officers for a proprietary program.

(3) **Changes in ownership and program name.** DHS is notified of changes in the legal basis for operation, ownership, or program name at least 30-calendar days prior to the changes.

(c) **Governing and advisory board.** A private, nonprofit program establishes a governing board and may also have an advisory board.

(1) **Meetings.** The governing board meets at least twice annually maintaining accurate meeting minutes.

(2) **Governing board responsibility.** The governing board maintains ultimate responsibility for governing but, having selected and employed an executive director, may delegate to the executive director responsibility for program administration.

(A) The board assumes joint responsibility with the executive director for general program and policy, funding, and compliance with minimum requirements.

(B) The responsibilities and relationship between the board and the executive director are defined in the constitution and bylaws and submitted to the DHS.

(3) **Governing board members.** Governing board members' names, titles, addresses, and phone numbers are submitted to DHS.

(4) **Board composition.** The governing board represents the diversity of the community served.

(A) The board is comprised of a minimum of three members.

(B) A majority reside in Oklahoma. Multi-state operations; however, may have a governing board outside of Oklahoma when they establish local advisory boards meeting the requirements in (5) of this subsection.

(C) Program personnel cannot comprise a majority of the board's voting members.

(D) Board members receive an orientation to board responsibilities on appointment.

(5) **Advisory board.** A private, proprietary program without a governing board

meeting the requirements in (1) - (4) of this subsection establishes an advisory board.

(A) The advisory board meets at least twice annually.

(B) The advisory board provides advice and counsel to the program on the policies and program operation, reflects local concerns, and represents the program to the community.

(C) Advisory board member names, addresses, and phone numbers are submitted to DHS.

(D) Program personnel cannot comprise a majority of the advisory board's voting members.

(E) A majority reside in Oklahoma.

(d) **Administrative policy.** Policy is clearly written, current, and available for residents, parents or legal custodians, personnel, and Licensing review. Policy is reviewed annually by the governing board. Policy includes, but is not limited to, areas governing:

(1) admission and discharge;

(2) personnel;

(3) volunteers;

(4) programs;

(5) grievance procedures approved by DHS Office of Client Advocacy (OCA);

(6) behavior management;

(7) mandatory child abuse reporting;

(8) suicide awareness and protocol;

(9) medical services;

(10) medication administration and dosage;

(11) records confidentiality;

(12) a resident absent without permission;

(13) emergency procedures; and

(14) reasonable and prudent parent standard application, when approving an activity for a resident.

(e) **Records and reports.** The records and reports maintained at the program and available for Licensing review are:

(1) resident's records;

(2) personnel records;

(3) criminal history investigation records;

(4) orientation and professional development records;

(5) menus of food served to residents;

(6) fire and tornado drill records;

(7) planned recreational, leisure, or physical exercise activities schedules;

(8) visitation records;

(9) transportation records; and

(10) resident's grievance records. These records are maintained for three years following the resident's discharge and in a confidential manner separate from resident's records per OCA.

(f) **Notifications.** The program complies with the notification requirements as outlined in this subsection.

(1) The program notifies Licensing on the next Oklahoma Department of Human

Services (DHS) business day, in the event of:

- (A) temporary or permanent program closing;
- (B) executive director change;
- (C) liability insurance coverage changes;
- (D) facility premises damage caused by fire, accident, or the elements seriously affecting the services provided;
- (E) legal action against a program or personnel involving a resident or program operation;
- (F) a serious resident injury requiring emergency medical treatment by a licensed health care professional; or
- (G) a resident death.

(2) Any person who has reason to believe a child was abused or neglected per 10A O.S. § 1-1-105 is required to report the matter promptly to the DHS Child Abuse and Neglect Hotline at 1-800-522-3511 per 10A O.S. § 1-2-101. Failure to report is a misdemeanor offense and upon conviction is punishable by law. Failure to report with prolonged knowledge, six months or more, of ongoing abuse or neglect is a felony offense.

(3) Per 21 O.S. § 870 every person having reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children, per 21 O.S. § 866, reports the matter promptly to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control.

(4) When a resident is absent without permission, the resident's parents or legal custodian are immediately notified.



## **Section 153. Finances**

(a) **Evidence of sufficient funds.** The program demonstrates evidence of sufficient funds.

(1) A new program submits a letter to Licensing from a certified public accountant documenting the procedures in place for operating the fiscal management system so the program's financial statements can be audited at the first fiscal operational year end.

(2) A new program submits a budget for the first 12 months of operation including predictable funds, as well as reserve funds.

(3) The program maintains a written financing plan projecting sufficient funds to carry out the program's defined purposes and provide proper care for children.

(b) **Fiscal responsibility.** The program demonstrates fiscal responsibility.

(1) The executive director maintains complete financial records of all income and disbursements.

(2) When cash funds are received, the executive director requires individuals with cash handling responsibilities be bonded.

(c) **Accountability.** The program demonstrates financial accountability.

(1) Program financial records are audited by a certified public accountant, who is not program personnel or a board member, or audited, per the governmental funding source.

(2) When completed, a copy of the auditor's letter, including a statement verifying the program's financial records accurately reflect its financial operations, per generally accepted accounting principles, is submitted to Licensing.

(d) **Insurance.** The program maintains insurance. Insurance policies are available for Licensing review.

(1) The program is covered by property casualty insurance, unless operated by a government entity that is self-insured, per state law.

(2) The program is covered by general liability insurance, unless exempt by state law. Coverage is at least \$200,000 for each occurrence of negligence. Form 07LC092E, Insurance Verification, that includes a certificate of insurance obtained from the insurance agent is completed annually, maintained at the facility, and made available to Licensing.

(3) Vehicles used to transport children are covered by liability and medical insurance.

## **Section 153.1. Personnel**

(a) **Personnel policy.** Personnel policy includes defining staff, essential position functions, qualifications, and authority lines.

(b) **Personnel and responsibilities.** The program recruits personnel with specialized skills, knowledge, and the cultural understanding and competencies necessary for quality residential care services.

(1) **Executive director.** The program employs an executive director, superintendent, or administrator; and in his or her absence, an individual is designated in charge.

(A) The executive director, superintendent, or administrator is responsible for employing individuals possessing adequate education, professional development, and experience to perform assigned positions' essential functions.

(B) The executive director is responsible for implementing the policies adopted by the governing board and ongoing program operation.

(2) **Program director.** The program director is responsible for implementing and supervising programs and services. The executive director may also serve as the program director, when meeting the qualifications specified in (d)(2) of this Section.

(3) **Social services personnel.** Social services personnel are responsible for admission assessments, placement services, counseling, residents' and his or her families' casework services, service plans, service plan reviews, and discharge plans.

(4) **Child care personnel.** Child care personnel are responsible for meeting residents' needs, taking in account the residents' ages, physical and mental conditions, and other factors affecting the amount of attention indicated.

(5) **Support personnel.** Support personnel are responsible for providing support duties.

(6) **On-call and part-time personnel.** On-call and part-time personnel are responsible for the position duties they are assigned.

(7) **On-site official.** There is an on-site official authorized to apply the reasonable and prudent parent standard.

(c) **Volunteers.** When a program uses volunteers, the program maintains current, written volunteer policy. Volunteers:

(1) counted in ratios meet all child care personnel requirements;

(2) receive orientation prior to resident contact; and

(3) work under the executive director's or designated personnel's direct supervision.

(d) **Executive director and program director qualifications.** The executive director, superintendent, or administrator, and program director possess adequate education, professional development, and experience to perform the positions' essential functions.

(1) In a program where the executive director operates primarily as an administrator and employs a program director, an executive director hired after June 15, 1990, has a minimum of a bachelor's degree from an accredited college or university.

(2) Individuals solely responsible for direct program supervision, when filling executive director or program director positions, meet at a minimum, one of the qualifications in (A) through (D) of this paragraph:

(A) a bachelor's degree from an accredited college or university with at least nine-college credit hours in family focus, individual function and interaction, child

development, sociology, social work, and/or a closely related subject, and 36 months children's services experience;

(B) a master's degree in social work, psychology, guidance and counseling, sociology, child development, human relations, behavioral science or other closely related subject from an accredited college or university and 24 months children's services experience;

(C) a doctorate in medicine, social work, psychology, guidance and counseling, sociology, child development, human relations, or closely related subject from an accredited college or university and 12 months children's services experience; or

(D) for programs specializing in substance abuse treatment, certification as a Qualified Substance Abuse Professional (QSAP).

(e) **Child care and supervisory personnel qualifications.** Child care and supervisory personnel possess adequate education, professional development, and experience to perform the position's essential functions.

(1) Child care personnel are at least 21 years of age.

(2) Personnel hired after June 15, 1990, have a high school diploma or equivalent within 12 months of employment.

(f) **Social services personnel qualifications.** Social services personnel, whether employees or contractors, possess adequate education, professional development, and experience to perform the position's essential functions.

(1) Social services supervisory personnel responsible for developing and implementing the social services program, meet at a minimum, one of the qualifications in (A) through (D) of this paragraph, including a bachelor's degree:

(A) in social work from an accredited college or university;

(B) in behavioral science, social science, or other related subject from an accredited college or university and 12 months children's services experience; or

(C) with at least nine-college credit hours in family focus, individual function and interactions, child development, sociology, social work, and/or a closely related subject, and 48 months children's services experience; or

(D) for programs specializing in substance abuse treatment, when social services personnel are supervised by a QSAP.

(2) Social services personnel hired after June 15, 1990, providing only casework services have a bachelor's degree in a related subject from an accredited college or university.

(g) **Employment requirements.** Personnel meet requirements in (1) through (3) of this subsection.

(1) **References.** The program obtains three references for personnel prior to employment.

(A) Verified references include the date, interview questions, responses, and interviewer's signature.

(B) Copies are maintained in the employee's personnel record.

(2) **Tuberculin test.** Tuberculosis testing is not required on a routine basis. Programs comply with the Oklahoma State Department of Health recommendation regarding tuberculin skin testing, when there is a local identified tuberculin exposure.

(3) **Performance evaluation.** A written performance evaluation is updated at least annually and maintained in the employee's personnel record.

(h) **Background investigations - general.**

(1) **Required individuals.** Background investigations are required, per the Oklahoma Child Care Facilities Licensing Act, Section. 404.1 of Title 10 of the Oklahoma Statutes, unless an exception, per (3) of this subsection applies for:

- (A) owners, prior to authorization to operate;
- (B) responsible entities, prior to authorization to operate and, when there is a change in a responsible entity;
- (C) personnel applicants, prior to hire; however, the program may hire individuals, when:

- (i) the program has submitted a criminal history review request to the Office of Background Investigations (OBI);

- (ii) only awaiting the national criminal history records search, based on fingerprint submission;

- (iii) criminal history review results from the OBI are received by the program. However, until complete results are received, the individual does not have unsupervised access to residents; and

- (iv) coming from another licensed program owned by the same business entity. Individuals are not required to repeat the background investigation process, unless required, per (2) of this subsection, with the exception of criminal history restriction waivers, provided there is no break in employment from the business entity;

- (D) individuals with unsupervised resident access, prior to having resident access, unless an exception, per (3) of this subsection applies;

- (E) adults living in the facility prior to authorization to operate or moving into the facility of an existing program. This includes residents who become 18 years of age while living in the facility, unless exempt as a resident receiving services from the program; and

- (F) individuals having access to, or review of, fingerprint results, prior to access to or review of the results.

(2) **Resubmission of criminal history reviews as of November 2, 2017.** Effective November 2, 2017, programs request a criminal history review process, excluding fingerprinting, for required individuals every five years. However, criminal history reviews requested prior to November 2, 2017, are resubmitted by November 1, 2022.

(3) **Non-required individuals.** Background investigations are not required for:

- (A) specialized service professionals who are not program personnel, provided parent releases are obtained, per Oklahoma Administrative Code (OAC) 340:110-3-154(a)(4)(E);

- (B) volunteer drivers transporting residents on an irregular basis and not filling another position, provided parent releases are obtained, per OAC 340:110-3-154(a)(4)(E);

- (C) contracted drivers not filling another position or having unsupervised resident access;

- (D) contracted non-personnel not having unsupervised resident access, such as when the program contracts for special activities or facility repair;

(E) individuals who are not program personnel and have contact with residents as part of family, community, and social activities, education, or employment, provided administrative and program policies are met including policy regarding trips away from the facility; and

(F) residents who become 18 years of age while living in the facility and continue to receive program services.

(i) **Background investigations - Restricted Registry.** The program conducts an online search of the Restricted Registry, also named Joshua's List, when required, per (h) of this Section.

(1) **Non-registrants.** Non-registrants are individuals not recorded on the Restricted Registry.

(2) **Registrants.** Registrants are individuals recorded on the Restricted Registry, who are prohibited from licensure, ownership, employment, unsupervised-resident access, facility residence, and prohibited individuals, per (j) of this Section.

(j) **Background investigations – criminal history.** The program and required individuals complete the criminal history review process. The program receives the completed criminal history review results from OBI, when required, per (h) of this Section.

(1) **Criminal history prohibitions.** Individuals with criminal history prohibitions are prohibited, per (k) of this Section. Criminal history prohibitions include:

(A) required registration under the:

- (i) Sex Offenders Registration Act, including state and national repositories; or
- (ii) Mary Rippey Violent Crime Offenders Registration Act; or

(B) pleas of guilty or nolo contendere (no contest), or convictions of felonies involving:

- (i) murder, as defined in Section 1111 of Title 18 of United States Code;
- (ii) child abuse or neglect;
- (iii) crimes against children, including child pornography;
- (iv) spousal abuse;
- (v) crimes involving rape or sexual assault;
- (vi) kidnapping;
- (vii) arson;
- (viii) physical assault or battery; or

(ix) a drug-related offense committed during the preceding five years, unless a criminal history restriction waiver, per (2) of this subsection is granted; or

(C) pleas of guilty or nolo contendere (no contest), or convictions of violent misdemeanors committed as adults against a child involving:

- (i) child abuse or child endangerment; or
- (ii) sexual assault; or

(D) pleas of guilty or nolo contendere (no contest), or convictions of misdemeanors involving child pornography.

(2) **Criminal history restrictions.** Individuals with criminal history restrictions are prohibited, per (k) of this Section, unless a criminal history restriction waiver is granted. Criminal history restrictions include pending charges, pleas of guilty or nolo contendere (no contest), or conviction of criminal activity involving:

(A) gross irresponsibility or disregard for the safety of others;

- (B) violence against an individual;
- (C) sexual misconduct;
- (D) child abuse or neglect;
- (E) animal cruelty;
- (F) illegal drug possession, sale, or distribution; or
- (G) a pattern of criminal activity.

(3) **Criminal history restriction waivers.** Restriction waivers are described in (A) through (C) of this paragraph.

(A) Restriction waivers may be requested for individuals having criminal history restrictions. The owner, responsible entity, or director completes requests on an Oklahoma Department of Human Services (DHS) form.

(B) Restriction waivers are not requested or granted for:

- (i) Restricted Registry registrants;
- (ii) individuals with criminal history prohibitions; or
- (iii) individuals whose sentence has not expired for criminal history restrictions.

(C) Individuals identified in pending or denied restriction waiver requests are prohibited, per (k) of this Section.

(k) **Prohibited individuals.**

(1) **Background investigation of required individuals.** The program does not allow a required individual to be the owner or responsible entity, to be employed, live in the facility, or have:

(A) resident access, such as being present at the facility during the hours of operation or present with the residents in care while off-site, when the individual has criminal history:

- (i) prohibitions; or
- (ii) restrictions, unless a criminal history restriction waiver is granted. Individuals identified in a pending or denied restriction waiver request are prohibited; or

(B) unsupervised resident access, when the individual is a Restricted Registry registrant.

(2) **Background investigation statements and consents.** Individuals are prohibited to be the owner or responsible entity, to be employed, or to live in the facility, when:

(A) the individual refuses to consent to background investigations, per (h) of this Section; or

(B) knowingly makes a materially-false statement in connection with criminal background investigations.

(3) **Alcohol, drugs, and medication.** When residents are in care, no individual employed by the program or providing program services may use or be under the influence of:

- (A) alcohol or illegal drugs; or
- (B) medication that impairs his or her functioning.

(4) **Child endangerment.** An individual whose health or behavior would endanger residents' health, safety, or well-being is not permitted to live in or be on the premises when residents are in care.

(5) **Criminal allegations.** When personnel is alleged to have committed an act, per (j) of this Section, the program's executive director determines and documents when the personnel is removed from resident contact until the allegation is resolved. However, when criminal charges are filed, the accused is removed from resident contact until the charges are resolved.

(6) **Deferred sentences.** Individuals having a deferred sentence for charges in (j)(2) of this Section are removed from resident contact for the deferment duration.

(l) **Orientation.** Personnel receive orientation within 30-calendar days of employment.

(1) Personnel receive orientation prior to assignment as the primary personnel responsible for residents.

(2) Orientation includes, at least:

(A) confidentiality;

(B) resident grievance process;

(C) fire and disaster plans;

(D) suicide awareness and protocol;

(E) emergency medical procedures;

(F) organizational structure;

(G) program philosophy;

(H) personnel policy and procedures;

(I) mandatory child abuse reporting; and

(J) administrative policy and procedure regarding behavior management.

(3) DHS Publication No. 86-78, Licensing Requirements for Residential Child Care Facilities, is part of the orientation process and available to personnel at all times.

(4) Orientation counts toward total professional development hours for the first 12 months.

(m) **Personnel professional development.** Personnel meet the professional development requirements in (1) through (7) of this subsection.

(1) **Professional development for the administrator and program director.** The administrator and program director obtain at least 12-clock hours of professional development annually. Hours are prorated at one hour per month for personnel not employed for a full-calendar year. The content pertains to position roles and responsibilities.

(2) **Professional development for social services personnel.** Social services personnel, including licensed mental health professionals and those providing casework services, obtain at least 12-clock hours professional development annually. Hours are prorated at one hour per month for personnel not employed for a full-calendar year. The content pertains to the position roles and responsibilities.

(3) **Professional development for child care personnel.** Child care personnel receive professional development.

(A) Full-time child care personnel obtain at least 24-clock hours of professional development courses annually. Hours are prorated at two hours per month for personnel not employed for a full-calendar year.

(B) Part-time child care personnel obtain at least 12-clock hours of professional development courses annually.

(C) On-call or substitute child care personnel obtain at least six-clock hours of professional development courses annually.

(D) The child care personnel professional development is relative to the assigned positions, roles, and responsibilities.

(E) When residents are in care on the facility premises or on a program-sponsored field trip, at least one personnel is present with current age-appropriate first aid and cardio-pulmonary resuscitation (CPR) documentation. All other child care personnel obtain and maintain age-appropriate first aid and CPR within 90-calendar days of employment.

(i) CPR training is conducted by an individual certified as an instructor through the:

(I) American Red Cross;

(II) Emergency Medical Services (EMS) Safety Services;

(III) Emergency Care and Safety Institute;

(IV) American Heart Association or American Heart-sponsored CPR for Family and Friends; or

(V) American Safety and Health Institute.

(ii) First aid training is conducted by an individual certified as a first aid instructor, or a health care professional using a curriculum from a DHS-approved source through the:

(I) Emergency Medical Services for Children (EMSC) First Care;

(II) American Red Cross;

(III) EMS Safety Services;

(IV) Emergency Care and Safety Institute;

(V) American Heart Association;

(VI) American Safety and Health Institute;

(VII) American Academy of Pediatrics First Aid for Caregivers and Teachers (PedFACTs); or

(VIII) other DHS-approved source.

(4) **Professional development for support personnel.** Support personnel providing occasional instruction or professional development to residents obtain at least six-clock hours of professional development courses annually. The content is relative to the position, role, and responsibility or resident interactions.

(5) **Behavioral intervention techniques.** Within 30-calendar days of employment, and prior to being solely responsible for residents, child care personnel and support personnel providing occasional instruction to residents, complete professional development or provide current certification in behavioral intervention techniques, to include at least the demonstration of:

(A) rules and appropriate consequences of various interventions;

(B) techniques for early de-escalation and preventive intervention;

(C) team approaches to behavior management;

(D) verbal crisis intervention; and

(E) safe and appropriate physical restraint, when applicable, per program policy.

(6) **Reasonable and prudent parent standard professional development.** A designated, on-site official authorized to apply the reasonable and prudent parent standard receives professional development on the use of reasonable and prudent parent standards.

(7) **Contracted personnel professional development.** Contracted personnel not



providing direct care or counted in the supervision ratio are exempt from meeting the personnel professional development requirements specified in (m)(1) through (6) of this Section.

(n) **Documentation.** Orientation and professional development hours are documented and available for Licensing review. Documentation includes personnel names attending, course titles and descriptions, dates, hours attended, and trainer or facilitator names.

(o) **Personnel records.** Programs maintain personnel records for each employee.

(1) The program submits to Licensing at the time of request for license a:

(A) current employee list; and

(B) DHS-provided personnel information sheet, for each employee.

(2) The program maintains written personnel information for each employee. The personnel file includes:

(A) a DHS-provided personnel information sheet, completed for each personnel and submitted to Licensing within two weeks of his or her employment;

(B) an application, resume, or personnel information sheet documenting position specific qualifications;

(C) criminal history review requests and results documentation;

(D) other applicable criminal history records;

(E) three references;

(F) annual performance evaluation reports and notes relating to the individual's program employment;

(G) the employment date;

(H) the date and reason for leaving employment; and

(I) program required health records.

(4) Personnel records are maintained for at least 12 months following the last employment date, unless the requirements specifically state otherwise.

(5) Licensing has access to personnel records and other confidential documents relevant to agency employees.

### **Section 153.2. Supervision of residents**

(a) The facility employs an adequate number of staff as child care workers to meet the needs of residents, taking into account the residents' ages, physical and mental condition and other factors that affect the amount of attention and supervision required.

(1) The facility maintains a ratio of one staff person for 10 residents (1:10) during awake hours.

(2) The facility maintains a ratio of one staff person for 12 residents (1:12) during sleeping hours.

(3) In a maternity facility where each mother is responsible for the care of her own child, the facility maintains a ratio of one staff person for 12 mothers and their children (1:12).

(b) A child care staff member's own children living in the residential facility are included when determining staff to child ratios.

### **Section 154. Social services**

(a) **Admission.** The program involves the resident and parents in the admission process.

(1) On admission, an assessment is completed for each resident indicating the placement is appropriate. The admission assessment is documented and available for Licensing review. An assessment includes the resident's:

(A) circumstances leading to the referral;

(B) family description and relationships with family members and other significant adults and children;

(C) current and past behavior description, including both appropriate and maladaptive behavior;

(D) immunization record, medical and dental histories, including current medical problems;

(E) school history, including the current educational level, special achievements, and school problems;

(F) placement history outside of the home, including placement reasons;

(G) mental health history; and

(H) record documentation indicating efforts to obtain identifying information in (A) through (G) of this paragraph, when not obtainable.

(2) **Resident admission for 4 years of age and younger.**

(A) A program may only accept residents 4 years of age and younger when maintaining a sibling group, maintaining a child with a parent, or when there is a need for special services, such as:

(i) medical care or monitoring;

(ii) awake supervision; or

(iii) crisis intervention, assessment, or treatment.

(B) When a resident 4 years of age and younger is in care at the program, the admission assessment and the service plan document why this placement is in the resident's best interest.

(3) Individuals 19 years of age and older are not admitted to the program. A program may continue to serve an individual who entered the program prior to his or her 19<sup>th</sup> birthday through the service plan completion.

- (4) Upon admission, the program obtains the parents' signature, for:
- (A) authority to provide care;
  - (B) authority to provide medical care;
  - (C) financial agreement, when a charge is made for the resident's care;
  - (D) authority to use the resident or the resident's picture in publicity, when applicable; and
  - (E) a release noting understanding that volunteer drivers or specialized service professionals are not required to complete the criminal history review per Oklahoma Administrative Code OAC 340:110-3-153.1. Specific activities or events are identified in the release.
- (5) Residents receive a medical examination by a licensed health care professional within 60-calendar days prior to admission or within 30-calendar days following admission. However, a documented medical exam performed within the 12 months prior to admission is acceptable when a resident is transferred from another licensed program.
- (6) On admission, the program advises the resident of all program rules and regulations.
- (7) Program policies provided to residents and parents include:
- (A) resident's rights;
  - (B) grievance procedures;
  - (C) behavior management policies;
  - (D) trips away from the program;
  - (E) use of volunteers; and
  - (F) frequency of reports to the parents.
- (8) Acceptance of out-of-state residents is made per the Interstate Compact on the Placement of Children.
- (b) **Service planning.** The service plan is available for Licensing review.
- (1) **Comprehensive service plan.** A written service plan is developed and documented for each resident within 30-calendar days of admission.
- (A) The program involves the resident and parents in service plan development. When parents do not participate in service plan development, the non-participation reason is documented.
  - (B) The service plan identifies and includes, the:
    - (i) resident's needs, such as counseling, education, physical health needs, medical care, or recreation, in addition to basic needs for food, shelter, clothing, routine care, and supervision;
    - (ii) strategies for meeting the resident's needs, including instructions to staff. Individual health needs must be addressed in the program's medical plan. Refer to OAC 340:110-3-154.3;
    - (iii) estimated length of stay;
    - (iv) goals and anticipated plans for discharge;
    - (v) program's plan to involve the resident's parents, including visitation guidelines; and
    - (vi) names and dated signatures of those participating in service plan development.
- (2) **Service plan review.** Service plan reviews are available for Licensing review.

- (A) The service plan is reviewed within 90-calendar days after development and at least every six months thereafter.
- (B) The program involves the resident and parents in the service plan review. When the parents do not participate in the service plan review, the non-participation reason is documented.
- (C) The service plan review includes:
  - (i) evaluation of progress toward meeting identified needs;
  - (ii) new needs identified since the plan was developed or last reviewed along with strategies to meet those needs, including instructions to staff;
  - (iii) estimated length of stay update and discharge plans;
  - (iv) continued appropriateness of placement assessment with the goal of determining when the resident may be returned home, placed in a foster home, transferred to some other care better suited for the resident's development, or maintained for a longer period in the residential program; and
  - (v) names and dated signatures of review participants.
- (c) **Services.** The program provides or facilitates the provision of services for meeting service plan goals.
- (d) **Discharge procedures.** The program involves the resident, parents or legal custodian, and personnel in discharge planning.
  - (1) Except in an emergency, a resident is not discharged to anyone other than the resident's parents or legal custodian without written authorization.
  - (2) An emergency discharge occurs when a resident presents a danger to self or others. Upon emergency discharge of a resident, the program informs the parents or legal custodian, immediately.
  - (3) The individual to whom the resident is discharged produces photographic identification and signs the discharge form before leaving with the resident.
  - (4) The resident's discharge date, time, destination, and circumstances are documented in the resident's record. The documentation also includes the individual's name, address, and relationship to whom the resident is discharged.
- (e) **Resident's records.** The program maintains a written record for each resident that is retained for three years following the resident's discharge.
  - (1) The record includes:
    - (A) resident's name, address, phone number, Social Security number, sex, race, religion, birth date and place;
    - (B) admission assessment;
    - (C) required authorizations, per (a)(4) of this Section;
    - (D) medical records;
    - (E) comprehensive service plan and reviews;
    - (F) educational information;
    - (G) serious incident reports are not limited to, suicide attempts, injuries requiring medical treatment, runaway attempts, crimes committed and abuse allegations, neglect, or any allegation of behavior management violations per OAC 340:110-3-154.2(b) – (d). The report includes incident nature, date and time, individuals involved, and surrounding circumstances;
    - (H) reports of separation, use of physical restraint, and other restrictions;

- (I) discharge summary; and
  - (J) signed documentation the resident and parents were provided copies of program policies.
- (2) Resident's records are confidential as defined by federal and state laws.

## **Section 154.1. Program**

(a) **Rights of residents.** The facility has current, written clients' rights policy that supports and protects all residents, which is available for residents, parents or custodians, staff, and licensing staff to review.

(1) Each resident and family is informed, in a language they commonly use, of the facility's policies and procedures regarding his or her rights.

(2) Each resident has a right to an individualized plan of care or treatment that focuses the services of the facility toward meeting the resident's needs. Each resident has the right to participate in the development of the plan.

(3) The facility ensures resident's rights and responsibilities are protected regarding items listed in (A) - (P) of this paragraph.

(A) **Personal finances.** Each resident is given the opportunity to have and handle money for personal use per the resident's service plan.

(B) **Personal possessions.** Each resident is allowed to bring personal possessions to the facility and acquire personal belongings as permitted by facility policy and procedure.

(C) **Personal care and hygiene.** Each resident is supplied with facilities and supplies for personal care, hygiene, and grooming.

(D) **Clothing.** Each resident possesses adequate, clean, well-fitting, and seasonable clothing and has a safe place to keep it.

(E) **Community activities.** Each resident has the right to community contacts and opportunities for participation in the local community per the resident's service plan.

(F) **Telephone contacts.** Each resident has access to a telephone to initiate and receive uncensored personal calls per facility policy and procedure. The residents have access to an attorney and authorized representative of the referring agency.

(G) **Mail.** Resident's letters, both incoming and outgoing, are not opened unless there is suspicion of contraband. When correspondence is opened, the resident is informed in advance, and is present when the letter is opened. This action is documented.

(H) **Restrictions.** Any restrictions placed on communications are explained to the resident and clearly documented.

(I) **Publicity.** Consent is obtained by the facility from the resident and the resident's parents or custodian prior to the use of any publicity about or related to the resident.

(i) Residents are not caused embarrassment by any publicity or promotional materials.

(ii) Residents are not forced to acknowledge their dependency on the facility or their gratitude to it.

(J) **Grievance.** Residents and parents or custodians have the right to file a grievance.

(K) **Religious training.** Each resident is provided an opportunity to participate in religious services.

(L) **Work.** Each resident is taught good work habits and is provided with a variety of tasks. Whenever possible, residents earn money through work.

Residents are never substituted for employed staff.

(M) **Safety.** Adequate measures are taken to prevent accidents and to avoid health and safety hazards.

(N) **Activities.** The program provides each resident regular opportunities to engage in age appropriate or developmentally appropriate activities.

(O) **Recreation.** Each resident is given time to pursue talents, hobbies, and chosen interests per the resident's service plan.

(i) The facility provides a balanced on- or off-grounds recreational program.

(ii) A written schedule of planned recreational, leisure, or physical exercise activities is developed with input from staff members and residents and is kept on file and available for licensing staff to review.

(P) **Sleep.** The facility provides adequate time and facilities for proper rest and sleep commensurate with each resident's age, health needs, safety, and activities.

(b) **Visitation.** The facility provides the residents and parents or custodian the opportunity for on- or off-campus visits per each resident's service plan.

(1) A record is kept of all visits.

(2) Reasons for visitation restrictions are explained to the resident and parents or custodian, documented in the resident's record, and reviewed every six months.

(3) Residents have access to their attorney and the referring agency authorized representative.

(c) **Education.** The facility has a clearly written policy that describes the plans for meeting educational needs of residents.

(1) Training and education are available to meet each resident's abilities.

(2) The facility ensures school-age residents receive the educational instruction they are entitled under provisions of federal and state education laws and regulations.

(3) Education is provided in or by a public school or a private school.

(4) The facility ensures any resident who is legally not attending school is either gainfully employed or enrolled in a high school equivalent General Education Development (GED) program or in a training program that teaches necessary life skills or methods of job acquisition.

(5) Tutoring is provided or arranged by the facility for residents, as needed.

(d) **Care of children birth to 5 years of age.** Programs caring for children birth to 5 years of age provide age or developmentally appropriate activities and equipment. Staff responsible for the care of these children are trained in age or developmentally appropriate practice.

## **Section 154.2. Behavior management**

(a) **Behavior management policy.** Behavior management policy includes:

- (1) the program's behavior management goals and purposes;
- (2) behavior management methods;
- (3) personnel authorized to administer the behavior management policy; and
- (4) behavior management monitoring and documentation methods policy.

(b) **Prohibitions.** Except as otherwise authorized in Oklahoma Administrative Code (OAC) 340:110-3-168 and 340:110-3-169, program policy prohibits:

- (1) shaking, striking, spanking, or other cruel treatment;
- (2) threatening, harsh, humiliating, cruel, abusive, or degrading language;
- (3) food or sleep denial;
- (4) degrading or unnecessary work tasks and inappropriate to the resident's age and ability;
- (5) denial of private familial and significant other contact, including visits, phone calls, and mail, as a means of punishment;
- (6) chemical agent use, including tear gas, mace, or similar agents;
- (7) seclusion;
- (8) extreme physical exercise;
- (9) residents disciplining other residents;
- (10) chemical restraint;
- (11) mechanical restraint;
- (12) group punishment;
- (13) violating a resident's rights; and
- (14) enticing residents to engage in verbal or physical altercation.

(c) **Separation.** A resident can be removed from the group or group activity as behavior management. The resident remains alone, but within adult hearing, in an unlocked, safe, clean, well-lighted, and well-ventilated area. The separation does not exceed one hour.

(d) **Physical restraint.** Restraint is used only when less restrictive interventions, per program policy, were attempted or when an immediate intervention is required to protect the resident, a personnel member, or others. The restraint technique used must be the least restrictive intervention that is effective to protect the resident or others from harm. Restraint is discontinued at the earliest possible time. A written incident report is completed within 24-hours following each physical restraint use.



### **Section 154.3. Health and medical services**

(a) **Medical plan.** The facility has an operational plan to meet the individual medical needs of each resident based on information obtained from the admission assessment, physical examination by a health care professional, and observation during placement.

(b) **Physical examination.** Each resident receives a physical examination annually, or at more frequent intervals as recommended by a health care professional.

(c) **Medical care.** Each resident receives proper medical and dental care. When a serious accident or illness occurs to a resident, the facility takes the necessary emergency action and notifies the parents or custodian immediately.

(d) **Immunizations.** Each resident is immunized against communicable diseases in accordance with the rules and regulations of the Oklahoma State Department of Health.

(e) **Medication.** The facility has current, written medication policy.

(1) On each shift, a staff member is designated to ensure compliance with the facility's medication policy.

(2) When any medication is administered to a resident, a precise record is kept that includes:

(A) the resident's name;

(B) the name of the medication;

(C) the dosage, date and time given, and signature of the person who administered it;

(D) reason the medication is given; and

(E) any unusual reaction. The resident, the parents or custodian, and all staff members responsible for the resident are informed of the side effects of the medication prescribed for the resident.

(3) Prescription medications are administered by the designated staff member only as part of a prescribed therapeutic treatment.

(4) All medications are kept in a locked container and under the supervision of the designated staff member.

(5) All unused or outdated medication is disposed of per facility policy.

(f) **First aid supplies.** The facility maintains first aid supplies.

#### **Section 154.4. Food and nutrition**

- (a) **Menu planning.** Menus are planned at least one week in advance. Menus are dated, posted, and kept on file for one year. Substitutions are noted on the menu.
- (b) **Frequency and quality of meals.** Meals meet the residents' nutritional needs.
  - (1) The program provides or arranges for breakfast, lunch, and dinner, and one or more snacks from food that is selected, stored, prepared, and served in a sanitary and palatable manner. Brunch and dinner may only be provided on weekends and holidays.
  - (2) Each meal contains a sufficient amount of food for every resident and additional servings are available and permitted.
  - (3) Cool, potable, drinking water is available at all times.
- (c) **Special diets.** Facilities recognize residents' religious, cultural, and health needs when planning, preparing, and serving food.
  - (1) The program makes available, as necessary, an alternate food choice for each meal served for residents on special diets or due to religious beliefs, cannot eat particular foods.
  - (2) The program follows individualized diets and feeding schedules prescribed by the resident's licensed physician.
- (d) **Meals.** Facilities recognize residents' social and emotional needs during mealtime.
  - (1) Residents and the personnel eating with them are served the same food, with the exception of tea and coffee, unless differences in age or special dietary needs are factors.
  - (2) Residents who have not had opportunities to learn how to handle food and utensils are not embarrassed or subject to the ridicule.

## **Section 154.5. Transportation**

(a) **Vehicle requirements.** Residential child care facilities comply with the vehicle requirements described in (1) - (5) of this subsection. A vehicle used to transport residents:

- (1) conforms to all applicable state motor vehicle laws and regulations;
- (2) is maintained in a safe operating condition;
- (3) has written documentation of regular maintenance of all facility vehicles to include quarterly inspection of tire wear and pressure, brakes, lights, and functioning seat belts;
- (4) has door locks. The driver is responsible for keeping the doors locked when the vehicle is moving; and
- (5) has an operable heater that is capable of maintaining a temperature of 65 degrees Fahrenheit in the vehicle, and a ventilation system.

(b) **Driver requirements.** Facilities comply with driver requirements described in (1) and (2) of this subsection. Program staff that drive a vehicle used to transport residents:

- (1) are 21 years of age or older;
- (2) possess a valid driver's license appropriate for the type of vehicle driven;
- (3) do not transport more passengers than the manufacturer's designated capacity for the vehicle;
- (4) have no conviction within the last three years of driving under the influence of alcohol, drugs, or other impaired driving offense; and
- (5) designed to transport 10 or more passengers, complete training specific to the safe operation of that type of vehicle within three months of transporting residents.

(c) **Safety practices.** Facilities comply with the safety practices described in this subsection.

- (1) The interior of each vehicle is maintained in a clean, safe condition with clear passage to operable doors.
- (2) Residents who are transported are properly secured in a child passenger restraint system or individual seat belt. The facility has policies to ensure the safety of residents involved in farm and ranch work. Buses with a capacity of ten or more passengers that meet state and federal requirements for school buses are exempt from this requirement.
  - (A) Children are transported in compliance with applicable state law. [47 O.S. § 11-1112]
  - (B) The child passenger restraint system is:
    - (i) federally approved;
    - (ii) installed according to the manufacturer's instructions;
    - (iii) appropriate to the height, weight, and physical condition of the child, according to the manufacturer's instructions; and
    - (iv) properly maintained.
- (3) Each seat belt is properly anchored to the vehicle and fits snugly across the child's hips or securely anchors car seats.
- (4) In accordance with state law, all adult passengers, except those in a full-size school bus, and the driver are properly secured by individual seat belts unless the driver or passenger has written verification from a doctor licensed in Oklahoma that

the individual is unable to use a seat belt for medical reasons.

(5) Effective June 2007, programs providing transportation for children younger than six years of age must have one staff person with current documentation of training in an OKDHS approved child passenger safety course. Information from the training is shared with all other staff that transport children. After May 2007, any staff used to meet this requirement have 60 days to obtain this training.

(6) Vehicles containing residents younger than age 12 years are never left without adult supervision.

(7) Children age 12 years and younger are prohibited from sitting in the front seat of an airbag equipped passenger vehicle unless an airbag cut off switch is installed and activated or if the vehicle has airbags equipped with weight sensitive devices. If a child 12 years or younger must be placed in front of an air bag, because all other positions are taken, it must be a child whose age and weight requires a forward facing harness seat.

(8) A first aid kit is available in the vehicle at all times.

(9) Safe conduct to and from all vehicles and safe off-street loading space is provided to protect children from:

- (A) backing vehicles;
- (B) being between vehicles; and
- (C) all traffic hazards.

(d) **Transportation records.** Facilities maintain transportation records.

(1) The facility maintains on file the name of each driver who transports residents and a copy of the valid driver license for that person.

(2) In accordance with state law, insurance verification is kept in the vehicle used to transport residents.

(e) **Insurance.** If the facility's transportation services are provided by a private individual, a firm under contract, or by another arrangement, the facility maintains on file a copy of the individual's or firm's insurance coverage.

(f) **Emergency planning.** The facility has a plan for transporting residents in case of emergency.

## **Section 157. Physical facility and equipment**

(a) **New construction.** Special consideration is given when choosing the site for new construction as to water availability for firefighting and access to all areas of the building for rescue.

(b) **Square footage.** Habitable living area is provided as in (1) - (4) of this subsection, and does not include offices, bathrooms, kitchens, laundries, hallways, furnaces, or utility areas.

(1) There is a total of 150 square feet of habitable living area, including sleeping space, for the first resident and 100 square feet for each additional resident.

(2) Each sleeping room for more than one resident has 70 square feet for the first resident and 50 square feet for each additional resident.

(3) Each sleeping room intended for one resident contains 110 square feet.

(4) All areas counted as habitable space have a minimum ceiling height of seven feet, six inches.

(c) **Basements.** Basements cannot be used for sleeping quarters.

(d) **Mobile homes.** Facilities cannot be located in mobile homes.

(e) **Storage of personal belongings.** Adequate space for storage of personal belongings for each resident is provided.

(f) **Staff sleeping quarters.** Staff sleeping quarters are separate from those of the residents, but near enough to assure supervision.

(g) **Staff space.** Facilities provide sufficient space separate from space used for program and treatment activities for administrative activities, individual counseling sessions, and other staff functions required by the program design.

(h) **Bathrooms.** Bathrooms are maintained in a clean and sanitary condition with adequate ventilation.

(1) At least one flush toilet, hand sink, and bathtub or shower in good working condition is available for every six residents. Bathrooms are convenient to sleeping quarters, living, and recreation rooms.

(2) Flush urinals may be substituted for not more than one-half the required number of toilets when provided to serve males only.

(3) Hand sinks, bathtubs, and showers have cold and hot water with temperatures between 100 and 120 degrees Fahrenheit.

(4) Toilet paper, soap, and individual sanitary towels are provided within easy access of residents.

(i) **Diaper changing.** A non-porous changing pad in good repair is used when changing diapers. The diaper-changing surface is used only for diaper changing and is sanitized after each diaper change. Staff members wash and scrub their hands thoroughly with dispensable soap and warm running water after each diaper change.

(j) **Sanitation and safety.** All habitable and non-habitable areas are maintained in a clean and sanitary condition, free of litter and hazards.

(1) Harmful substances and objects that are not essential to facility operation are not kept on the premises. Other poisonous, flammable, or harmful materials are kept under lock when not under the supervision of an authorized adult.

(2) All firearms are stored unloaded in a locked container, cabinet, or closet. Ammunition is stored in a locked area separate from firearms.

(3) Every closet door can be opened from inside the closet.

(4) Every bathroom door lock can be unlocked from the outside in an emergency. The opening device is readily accessible to staff.

(5) All rooms used by residents are maintained at an indoor temperature between 65 and 85 degrees Fahrenheit.

(6) Indoor and outdoor recreational equipment and supplies are maintained in good condition, and play areas are free of hazards at all times.

(7) Floors, walls, ceilings, doors, and windows are maintained in good condition.

(8) The exterior foundation, roof, and walls are weather-proofed and maintained in good condition.

(9) All areas used by residents are well-lighted.

(10) The safety and sanitary conditions of house parent quarters is the responsibility of the facility.

(k) **Furnishings and decor.** The facility supplies comfortable furniture, as appropriate, for all living areas. Furniture for residents' use is of sufficient quantity and appropriately designed to suit the age, size, and capabilities of the residents.

(1) Each resident has an individual bed that is large enough to accommodate the resident adequately. Each bed has its own mattress and bedding.

(A) Cribs, including portable cribs that can be folded or collapsed without being disassembled, meet the current Consumer Product Safety Commission (CPSC) full-size and non-full size crib standards per Sections 1219 and 1220 of Title 16 of the Code of Federal Regulations.

(B) Verification of compliance with CPSC standards is maintained for duration of crib use.

(C) Crib or port-a-crib mattresses fit snugly with no more than one inch between the mattress and crib.

(2) Every bedroom and bathroom window is equipped with window treatments as needed for privacy.

(3) Broken, defective, or recalled furnishings and equipment are repaired or replaced.

(l) **Telephones.** An operable telephone is readily accessible to each living unit for emergency use.

(m) **Health regulations.** The facility complies with licensing regulations for buildings, utilities, grounds and food service sanitation per Section 163 and 164 and is inspected annually by the appropriate state agency.

(n) **Fire safety.** The facility complies with the state fire marshal's office regulations for construction and fire safety and is inspected annually by the state fire marshal's office or its designee.

(o) **Environmental quality.** A facility not on local water and sewage supply systems is inspected annually by the Department of Environmental Quality.

### **Section 163. Buildings, utilities, and grounds regulations**

The requirements in this Section apply to all residential child care facilities constructed after June 15, 1990. Licensed facilities in operation June 15, 1990 continue to comply with the construction and safety regulations applicable to the issuance of their license.

(1) **Building.** Buildings used to house residential child care facilities are structurally sound. Structures comply with the building code adopted by the Oklahoma State Fire Marshal Office, the plumbing code, mechanical code, and fuel gas code adopted by the Construction Industries Board and the latest edition of the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) Standards.

(A) Exterior and interior surfaces are maintained in sound condition, free of holes, peeling paper, and paint.

(B) Windows and doors are in good repair, and free of broken glass or hazards.

(C) Floors are cleanable and in good repair.

(D) All uncovered floors, including concrete and wood floors, are sealed.

(2) **Premises.** The premises are maintained in accordance with the requirements listed in this paragraph.

(A) The premises are free of harborage for insects, rodents, and other vermin.

(B) Safe, effective measures are taken to minimize the presence of, and to protect against, the entry of vermin.

(C) The premises are otherwise maintained free of hazards to children.

(D) The premises are free of illegal drugs and paraphernalia.

(E) Materials used to prevent egress of children such as barbed wire, electrical fencing, razor and concertina wire are prohibited.

(3) **Tobacco use.** The facility prohibits the use of any tobacco product by residents. Smoking is prohibited in buildings used by residents or in the presence of residents. The facility prohibits staff members from using tobacco products in the presence of residents or in any rooms used by residents.

(4) **Screening.** Every window, exterior door, hatchway, or similar device is rodent proof, reasonably water and weather tight, and is kept in working condition and good repair. During the portion of the year when there is a need for protection against mosquitoes, flies, and other flying insects, every door and window is provided with a 16-mesh, properly fitting screen. Air conditioned habitable areas are adequate to meet this requirement when properly operated unless vermin are able to enter to such extent that a nuisance or hazard is created.

(5) **Ventilation.** Each habitable room must be ventilated. Window areas meet requirements of the State Fire Marshal. Non-habitable areas, such as bathrooms and food preparation areas, may provide other approved ventilation systems in lieu of windows or skylights. Adequately designed, maintained, and operated heating and cooling systems are deemed to meet the ventilation requirements.

(6) **Lighting.** All areas used by residents are well-lighted.

(7) **Windows.** Effective July 1, 2009 any new construction or existing space that has not been previously licensed as resident's sleeping quarters have an exterior window for natural lighting.

(8) **Laundry.** Laundry areas are maintained in a clean, safe condition. Equipment is

installed to meet safety requirements.

(9) **Water supply.** The water supply is adequate, of a safe and sanitary quality, meets state quality standards, and is approved by the Oklahoma Department of Environmental Quality (DEQ).

(A) When not on a public water supply, such as well water, water meets local and state testing requirements and is tested annually.

(B) All areas where food is prepared or equipment, utensils, or containers are used have hot and cold water under pressure.

(10) **Sewage disposal.** All sewage, including mop water, is disposed of in a public sewage system or, in its absence, in a manner approved by the DEQ.

(11) **Plumbing.** Plumbing is sized, installed, and maintained in a safe manner and in accordance with the Oklahoma Plumbing License Act.

(A) Plumbing constructed after June 1, 1987, is installed in compliance with the International Plumbing Code or applicable local ordinances.

(B) Any cross-connection between the potable water supply and any nonpotable or questionable water supply, or any source of pollution through which the potable water supply might become contaminated, is prohibited.

(C) Water closets, lavatories, bathtubs, and showers are properly connected to a water and sewer system approved by the Construction Industry Board and are in good working condition.

(D) Every lavatory basin and bathtub or shower is supplied with hot and cold water under pressure at all times.

(12) **Electrical.** The electrical distribution system is sized, installed, and maintained in a safe manner and in accordance with the Oklahoma Electrical Licensing Act. Portions of the electrical system constructed, repaired, or replaced after June 1, 1987, are installed in compliance with the current National Electrical Code. Lighting is at least 20 foot candles at desk level.

(13) **Garbage and rubbish disposal.** Prior to disposal, all garbage and rubbish containing food wastes or diapers are kept in leak-proof, non-absorbent containers and covered with tight-fitting lids when filled, stored, or not in continuous use.

(A) The containers are adequate for the storage of all food waste and rubbish accumulating on the premises.

(B) Each container is thoroughly cleaned when soiled.

(C) Garbage disposal units, if used, are of suitable construction and installed in compliance with state and local standards.

(D) All garbage and rubbish are disposed of frequently and in such a manner to prevent a nuisance.

(E) All hazardous material is disposed of properly.

(14) **Swimming pools.** In accordance with state law, swimming pools used by children in a residential facility are considered public bathing places and must meet the requirements of the Design Standards and Operational Criteria for Public Bathing Places of Oklahoma State Department of Health (OSDH).

(A) If a private swimming pool is used, it then becomes a public pool and must meet the requirements of OSDH.

(B) The use of portable pools is prohibited.

(C) A certified life guard or person having a current water safety certificate or



comparable certificate with cardio-pulmonary resuscitation and first aid is in attendance at all times when the pool is in use.

**(15) Animals.**

(A) Harboring animals on the premises is in accordance with local ordinances.

(B) Animals may be kept on the premises only when the health and safety of each animal and the residents can be reasonably assured.

(C) Animals with which residents have contact are maintained in a state of good health and are free of diseases communicable to humans.

(D) Dogs and cats kept on the premises are vaccinated annually by a licensed veterinarian.

(E) Areas of confinement are cleaned of excrement regularly. Animals are maintained in a visibly clean manner.

(F) The OSDH is immediately notified as required by state law if a resident is bitten by an animal.

## Section 164. Food service requirements

All residential child care facilities comply with the following regulations adapted from the Oklahoma State Department of Health Rules and Regulations pertaining to food service establishments.

(1) **General.** Food service requirements are listed in this paragraph.

(A) Food is protected at all times from any contamination including cross-contamination between raw and cooked foods, toxic substances, or contamination by insects or rodents while being stored, prepared, displayed, dispensed, packaged or transported.

(B) Equipment and utensils used for food storage, preparation, and serving are maintained in a sanitary condition.

(2) **Food supplies.** The requirements regarding food supplies are contained in this paragraph.

(A) **Food sources.** Food is in sound condition, free from spoilage, contamination, filth, adulteration, misbranding, and safe for human consumption.

(B) **Home-canned and hermetically sealed food.** Individually home-canned food or use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

(C) **Milk products.** Requirements pertaining to milk products include:

(i) only Grade A pasteurized fluid milk and fluid milk products for drinking are permitted;

(ii) pasteurized dry milk or evaporated milk may be used for cooking purposes only;

(iii) milk and milk products are stored at 41 degrees Fahrenheit or below;

(iv) milk is stored in the original carton; and

(v) milk may be transferred from the original container to pitchers for serving. However, milk removed from the original container may not be returned to the original container or stored for later use.

(D) **Meat, poultry, and fish.** Meat, poultry, and fish are obtained from approved sources and have been inspected by appropriate governmental authorities. Raw or undercooked animal foods such as rare ground meat, shellfish, or steak are prohibited.

(E) **Ice.** Ice used for any purpose is made from water which comes from an approved source and was manufactured, stored, transported, and handled in a sanitary manner.

(F) **Juice.** Apple juice, apple cider, and beverages containing apple juice are pasteurized or commercially sterile. Juices that bear a warning label are prohibited.

(G) **Sprouts.** Raw seed sprouts are prohibited.

(3) **Potentially hazardous foods.** Requirements pertaining to potentially hazardous foods are contained in this paragraph.

(A) **Cooking.** Potentially hazardous foods are cooked according to food regulations adopted by OSDH.

(B) **Egg products.** Only clean, whole-shell eggs without cracks, which meet applicable grade standards and are held at 41 degrees Fahrenheit during storage, or pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs are

permitted.

(i) Raw unpasteurized eggs are not used in uncooked food, for example, ice cream or eggnog.

(ii) Eggs are cooked to at least 145 degrees Fahrenheit for 15 seconds. Soft-cooked unpasteurized eggs are prohibited.

(C) **Reheating foods.** Before being served, potentially hazardous foods that have been cooked and then refrigerated are reheated rapidly throughout to 165 degrees Fahrenheit or higher before being served.

(4) **Food protection.** Foods are covered and protected from contamination while being stored, prepared, displayed, or transported.

(A) Medicines and other hazardous items are stored in a manner that prevents contamination of food.

(B) Refrigeration units and insulated facilities are required to assure maintenance of all food at 41 degrees Fahrenheit or below except during preparation and service.

(C) A thermometer is located in a conspicuous place in each refrigerator and freezer.

(D) All perishable foods, including fruits and vegetables, are stored at temperatures that will protect against spoilage.

(E) A suitable small-diameter probe thermometer is available to check food temperatures.

(F) All potentially hazardous foods are maintained at safe temperatures, 41 degrees Fahrenheit or below or 135 degrees Fahrenheit or above, except during necessary periods of preparation and service.

(G) Raw eggs are not to be cracked and combined unless used immediately.

(H) Use of unlabeled cans is prohibited.

(I) Use of damaged cans that are bulging or have a broken seal are prohibited.

(J) Frozen food is kept at 10 degrees Fahrenheit or below except when being thawed at refrigerator temperature of 41 degrees Fahrenheit or under cool, potable running water at 70 degrees Fahrenheit or below, or microwaved as part of the cooking process.

(K) Cased food in water proof containers may be stored on a floor that is clean and not exposed to moisture.

(5) **Food preparation.** Food is prepared with a minimum of manual contact on food-contact surfaces and with clean, sanitized utensils.

(A) Whenever there is a change in processing between raw beef, pork, poultry, or seafood, or a change in processing from raw to ready-to-eat foods, each new operation begins with clean, sanitized food-contact surfaces and utensils.

(B) Raw fruits and vegetables are thoroughly washed with potable water before being cooked or served.

(6) **Use of food.** Individual or family-style portions of food once served are not served again. Prepared and unserved food may be properly stored for later service. Wrapped food that remains properly stored and has not been unwrapped may be served again.

(7) **Transporting food.** The requirements for storage, display, and general protection against contamination contained in this Section apply to all food that is

transported from one location to another for service.

(A) During transportation, potentially hazardous food is kept at 41 degrees Fahrenheit or below or at 140 degrees Fahrenheit or above.

(B) During transportation, all food is in covered containers or completely wrapped or packaged to protect it from contamination.

(8) **Catering services.** When catering services are used:

(A) meals are obtained from a food service establishment approved by the health department; and

(B) procedures and equipment for transporting meals are approved by the health department.

(9) **Health and hygiene.** The health and hygiene requirements are listed in (A) - (C) of this paragraph.

(A) Individuals are prohibited from working in any capacity in any area of food service if diagnosed with Salmonella Typhi, Shigella spp., Enterohemorrhagic or Shiga toxin-producing Escherichia coli, Hepatitis A virus, or Norovirus.

(B) Individuals are restricted from working in any area of food service if diagnosed with or a carrier of any communicable disease, or while afflicted with boils, infected wounds, sores, an acute respiratory infection, vomiting, fever, sore throat with fever, or diarrhea.

(C) All individuals wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty.

(i) Individuals thoroughly wash their hands and the exposed portions of their arms with dispensed soap and warm water for at least 20 seconds before starting work, during work as often as necessary to keep them clean, after handling raw food products and after eating, drinking, using the toilet or returning from other areas of the facility, or any other contamination.

(ii) Individuals keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

(10) **Food equipment, utensils, and storage items.** All equipment and utensils are designed and constructed of safe, non-toxic materials and are smooth, non-absorbent, easily cleaned, durable, and in good repair.

(A) All equipment is installed to facilitate cleaning of the equipment and adjacent areas.

(B) Adequate food service utensils are provided to ensure complete food service for one meal for the licensed capacity of the facility.

(C) Tableware is washed, rinsed, and sanitized after each use and stored in a clean area.

(D) To prevent cross-contamination, kitchenware, utensils, and food contact surfaces of equipment are washed, rinsed, and sanitized after each use.

(E) Cooking devices are cleaned as often as necessary and are free of encrusted grease deposits and other soils.

(F) Non-food contact surfaces of all equipment, including tables, counters, and shelves, are cleaned as often as necessary to keep them free of accumulations of dust, dirt, food particles, and other debris.

(11) **Cleaning and sanitizing equipment and utensils.** Equipment, utensils, and service items are maintained in a sanitary condition by use of one of the methods

listed in this paragraph.

(A) **Dishwashing machines.** Commercial or domestic dishwashing machines are acceptable if heat or chemical sanitizing cycles are properly installed and if operated in a manner that allows completion of a sanitizing cycle without opening the machine. Adequacy of the sanitizing cycle is 180 degrees Fahrenheit by heat or 50 parts per million by sanitizer in accordance with United States Environmental Protection Agency (EPA)-approved labels.

(B) **Manual cleaning.** Requirements for manual cleaning are in this subparagraph.

(i) If a three-compartment sink or automatic dishwasher is not available, a two-compartment, domestic-type sink may be used when additional vessels are provided to ensure the rinsing and sanitizing of all equipment, utensils, and tableware.

(ii) Equipment, utensils, and tableware are washed, rinsed, and sanitized in the sequence listed in this subparagraph.

(I) Sinks are cleaned prior to use.

(II) In the first compartment, items are thoroughly washed with a detergent in a solution that is kept clean.

(III) In the second compartment, equipment items are rinsed with clean water until they are free of detergent and abrasives.

(IV) In the third compartment, items are sanitized.

(iii) Food-contact surfaces of all equipment and utensils are sanitized by immersion in a clean solution containing any chemical sanitizing agent.

(iv) All items are air-dried in a self-draining position before being stored. No cloth drying is permitted.

(C) **Use of single-service articles.** Facilities that do not have adequate and effective facilities for cleaning and sanitizing utensils use single-service articles for both preparation and service.

(i) Single-service articles are stored in closed cartons or containers which protect them from contamination.

(ii) Single-service articles are used only once.

(12) **Storage area.** Storage areas meet the requirements contained in this paragraph.

(A) Adequate space is provided for the storage of sanitized equipment, utensils, and service items.

(B) Items are stored above the floor in a clean, dry location to protect food contact surfaces from splash, dust, and other contamination.

(C) Only poisonous and toxic materials that are required to maintain sanitary conditions and for sanitation purposes are used or stored in the food preparation area.

(D) Poisonous and toxic materials are identified and used only in accordance with manufacturer's use directions and under conditions that do not contaminate food or constitute a hazard.

(13) **Food service hand-washing facilities.** Separate hand-washing facilities equipped with hot and cold running water with a mixed-valve faucet are provided in the food preparation area in any facility licensed or remodeled after October 1, 2001

and have a minimum of 100 degrees Fahrenheit at hand-washing sinks. In cottage-type and domestic type residential housing licensed prior to July 11, 1978, hand-washing facilities in a bathroom on the same floor as the kitchen are deemed convenient and adequate.

(A) Dispensed cleansing soap or detergent and sanitary towels, or other hand-drying devices are provided.

(B) Facilities are kept clean and in good repair.

(C) Food preparation and dishwashing sinks are not used for hand-washing purposes.

(14) **Food preparation and service areas.** Food preparation and service areas meet the requirements listed in this paragraph.

(A) **Floors.** The floor surface in all rooms or areas in which food is stored or prepared is of smooth, non-absorbent materials.

(i) Unsealed concrete and carpet are not permitted.

(ii) Floors are constructed so that they are easily cleaned and are kept in good repair.

(B) **Walls and ceilings.** Walls and ceilings, in areas in which food is prepared or utensils or hands are washed, are kept in good repair, easily cleaned, and have washable surfaces up to the highest level reached by splash or spray.

(C) **Lighting.** The requirements addressing lighting are contained in this subparagraph.

(i) All areas in which food is prepared or stored, as well as hand-washing areas, toilet rooms, and garbage and rubbish storage areas, are lit as per International Electrical code.

(ii) All lighting fixtures are shielded.

(D) **Ventilation.** Rooms are properly ventilated as per International Plumbing Code.

(i) All rooms have sufficient ventilation to keep them free from heat, steam, vapors, obnoxious odors, smoke, and fumes.

(ii) Ventilation systems comply with applicable state and local fire prevention requirements and, when ventilated to the outside air, discharge in such a manner as to not create a nuisance.

(E) **Housekeeping.** All areas where food is prepared and served are kept clean, neat, and free from litter and rubbish.

(i) Cleaning operations are conducted in a manner that minimizes contamination of food and food-contact surfaces.

(ii) Soiled linens, coats, and aprons are kept in containers until removed for laundering.

(iii) Live birds or animals are not allowed in any area used for food service operations.

## **Section 165. Construction and fire safety**

The requirements in this Section establish minimum construction and fire safety requirements for residential child care facilities, which are enforced by the State Fire Marshal.

(1) **Approval of residential facilities.** The Office of the State Fire Marshal is responsible for approval of all residential child care facilities.

(A) Current state-adopted codes [74 O.S § 317 through 324.21] are enforced for all new construction including additions or major alterations of existing licensed facilities and conversion of buildings not previously licensed as residential child care facilities.

(B) Licensed facilities in operation on the effective date of these regulations comply with the construction and fire safety codes applicable to the issuance of their license.

(C) Clarification regarding codes and enforcement is available from the Office of the State Fire Marshal.

(2) **Minimum construction requirements.** The facility complies with the construction requirements described in (A) - (E) of this subsection.

(A) Architectural plans are submitted to and approved by Licensing Services and the State Fire Marshal or designee before proceeding with construction.

(B) When choosing the site for new construction, special consideration is given to available water for fire fighting and access to all areas of the building for rescue.

(C) Facilities meet local building, electrical, plumbing, and fire prevention codes. In localities where a building code or Life Safety Code does not exist, construction conforms to the current state-adopted codes.

(D) Building separation and property line setbacks meet requirements of local ordinances. In the absence of such ordinances, the state adopted building code applies.

(E) A mobile home, whether mobile or permanently situated, is not permitted as a residential child care facility.

(3) **Administration.** The facility complies with the requirements contained in (A) - (E) of this subsection.

(A) **Fire protection plan.** The facility has a written fire protection plan for all persons in the event of fire and evacuation from the building. The plan is the basis of regular fire drills and includes procedures followed under all specific types of emergencies.

(i) All supervisory personnel have a copy of the facility's fire protection plan.

(ii) Each employee is familiar with locations and use of portable fire extinguishers.

(iii) Each staff member is familiar with evacuation procedures and routes.

(B) **Evacuation plan.** Evacuation plans are posted in prominent locations on all floors in each building.

(C) **Emergency numbers.** Emergency telephone numbers are conspicuously posted at the telephone.

(D) **Housekeeping.** The facility:

(i) prohibits areas under stairs from being used for combustible storage; and

- (ii) ensures that accumulations of papers or trash are removed from the building as soon as possible.
- (4) **Exits.** The residential child care facility complies with the requirements pertaining to exits described in (A) - (B) of this paragraph.
  - (A) Exits are not blocked.
  - (B) Means of exit are adequately lighted by natural or electric light at all times to permit safe evacuation of occupants.
- (5) **Fire protection equipment.** Equipment is installed and maintained as required by codes adapted by the Office of the State Fire Marshal.
  - (A) **Smoke detectors.** The residential child care facility has operable smoke detectors located according to NFPA 72 as adapted by the state fire marshal. The detector is powered by battery, alternating current, or other power source. Upon inspection, a battery operated detector found inoperable is replaced immediately with an operable system. For facilities licensed after October 1, 2001 a hard-wired system is installed.
  - (B) **Fire extinguishers.** Fire extinguishers are provided in accordance with current adapted NFPA standard #10 "Portable Fire Extinguisher."
    - (i) All fire extinguishers are inspected, serviced, and tagged annually by a trained individual.
    - (ii) Disposable fire extinguishers are prohibited.
- (6) **Maintenance of equipment.** All safety equipment, including emergency lighting, commercial stove hoods, sprinkler systems, and any other required safety equipment, is maintained in compliance with current codes or manufacturer's instructions.
- (7) **Interior.** The interior of the facility complies with the requirements contained in (A) - (F) of this subsection.
  - (A) Changes to interior finish or floor covering meet current codes regarding flame spread rating.
  - (B) Furnishings or decorations with an explosive or highly flammable characteristic are prohibited.
  - (C) Use of open-face space heaters, unvented space heaters, and portable heating devices is prohibited.
  - (D) Heaters, including floor furnaces, are enclosed by a guard when necessary to protect children from hot surfaces.
  - (E) The use of temporary wiring or extension cords as permanent wiring is strictly prohibited. Extension bars are acceptable if there is documentation that a circuit breaker or fuse is built into the unit.
  - (F) Electrical outlets, which are not in use, are covered with safety devices when children under five years of age are in care.
- (8) **Exterior.** Exterior areas are free of trash and tall grass.



## Section 165.1. Safety and emergency preparedness requirements

The requirements in this Section establish safety and emergency preparedness requirements for residential child care facilities.

(1) **Fire drills.** Residents participate in fire exit drills performed at least six times per year on a bimonthly basis with a minimum of two drills conducted at night during normal sleeping hours.

(2) **Tornado drills.** Residents participate in tornado drills conducted each spring.

(3) **Fire and tornado drill records.** Facilities maintain a log of all fire and tornado drills.

(4) **High risk activities.** If the facility allows residents to engage in activities, such as horseback riding, archery, gymnastics, karate, or using firearms, a written plan which ensures the health and safety of residents is maintained on file at the facility.

The plan includes:

(A) qualifications of the supervisor of the activity;

(B) qualifications of any other staff members necessary for proper supervision;

(C) number of staff members needed to supervise the activity;

(D) conditions under which a resident may participate in the activity, such as age and the skill of the resident;

(E) any necessary special equipment, for example, life jackets or helmets, including the supply and condition; and

(F) safety practices followed.

(5) **Water activities.** If residents engage in recreational water activities, safety precautions are followed. A person with a current water safety certificate or comparable certificate is in attendance at all times. This person is in the water or is prepared to enter the water at any time.

(6) **Disaster planning.** The facility has a written plan for reporting and protecting from outside threats, and evacuating in case of fire, flood, tornado, blizzard, power failure, or other natural or man-made disaster that could create structural damage to the facility or pose health hazards.

(7) **Sleep positioning.** To reduce the risk of Sudden Infant Death Syndrome infants younger than 12 months of age are placed on their back for sleeping unless there is a medical reason documented by a doctor that the infant should not sleep in this position.

(A) Documentation is maintained at the facility.

(B) Infants who are able to turn themselves over are placed initially on their back for sleeping but allowed to sleep in a position they prefer.

(C) Infant and toddler's heads and faces are not covered.

## **Section 166. Requirements for regimented residential programs**

(a) **Regimented residential programs.** A regimented residential program is a military style training program under which residents are subject to a controlled and regimented environment that affirms dignity of self and respect for others, and includes physical training and discipline.

(b) **Requirements.** Regimented residential programs comply with the rules contained in Section 145 through Section 165.1, except as otherwise provided in this Section.

(c) **Administrative policy.** Regimented residential programs comply with the rule contained in Section 152(d) regarding developing policies. In addition, policy includes guidelines for physical exercise, which ensures the health and safety of residents.

(d) **Executive director qualifications.** The person responsible for program supervision, whether the executive director or the program director, is exempt from meeting the qualifications contained in Section 153.1(d)(2). One of the qualifications listed in (1) - (3) of this subsection, however, must be met:

(1) a bachelor's degree in a behavioral science or other related area of study from an accredited college or university and three years experience in children's services. Military experience may substitute for up to two years of experience in children's services;

(2) a master's degree in social work, psychology, guidance and counseling, sociology, child development, human relations, or other related area of study from an accredited college or university, and two years experience in children's services. Military experience may substitute for up to one year of experience in children's services; or

(3) a doctorate in medicine, social work, psychology, guidance and counseling, sociology, child development, human relations, or other related area of study from an accredited college or university and one year of experience in children's services. Military experience may substitute for experience in children's services.

(e) **Supervision of residents.** Regimented residential programs comply with the rule contained in Section 153.2 regarding supervision of residents. When adjudicated juveniles are in care, however, the facility maintains a staff-child ratio of one to eight (1:8) during waking hours and one to twelve (1:12) during sleeping hours. Staff meeting the 1:12 ratio remain awake.

(f) **Physical examination.** Regimented residential programs are exempt from the rule contained in Section 154(a)(5) regarding physical examinations within 30 days following admission. Prior to beginning intense physical exercise, however, each child has a physical examination by a health professional who states that the child may participate in a high-impact program.

(g) **Physical facility.** Regimented residential programs are exempt from the rule contained in Section 157(b)(2) - (3) pertaining to square footage in sleeping rooms. Facilities, however, meet the requirements contained in (1) - (2) of this subsection.

(1) Each sleeping room intended for one resident contains 80 square feet.

(2) Facilities using barracks for sleeping have a minimum of 40 square feet per resident with no less than three feet between beds.

(h) **Staff sleeping quarters.** A regimented residential program operating with barracks-type sleeping rooms is exempt from the rule contained in Section 157(f)

pertaining to separate sleeping quarters for staff if the staff in the sleeping quarters is the same gender as the residents.

(i) **Toilets, sinks, and bathtubs or showers.** Regimented residential programs are exempt from the rules contained in Section 157(h)(1). Programs, however, meet the requirements contained in (1) - (3) of this subsection.

(1) At least one flush toilet is available for each 12 males in male facilities and eight females in female facilities.

(2) At least one wash basin is available for each 12 residents.

(3) At least one shower or bathtub is available for each eight residents.

## **Section 167. Requirements for children's shelters**

(a) **Children's shelter.** A children's shelter is a non-secure public or private residential program that provides temporary care and supervision for children.

(b) **Requirements.** Children's shelters comply with the rules contained in Section 145 through Section 165.1, except as otherwise provided in this section.

(c) **Tuberculin test.** Children's shelters comply with the rules contained in Section 153.1(g)(2) regarding tuberculin tests.

(d) **Supervision of residents.** Children's shelters are exempt from the rules contained in Section 153.2 pertaining to supervision of residents. The shelter, however, employs an adequate number of staff as child care workers to meet the needs of the residents. All staff members on duty are awake and accessible at all times.

(1) For residents ages 0 to five years of age, the facility maintains a ratio of one staff person for four residents (1:4).

(2) For residents ages six to 11 years of age, the facility maintains a ratio of one staff person for six residents (1:6).

(3) For residents ages 12 to 18 years of age, the facility maintains a ratio of one staff person for eight residents (1:8).

(e) **Admission.** Children's shelters are exempt from the rules contained in Section 154(a)(1)-(5) regarding admission. Shelters, however, meet the requirements contained in (1) - (7) of this subsection in addition to Section 154 (a)(5) - (7).

(1) Persons 18 years of age and older are not admitted to a shelter. A shelter may continue to serve a person who entered the shelter prior to his or her eighteenth birthday through the completion of his or her placement plan.

(2) The shelter admits only those children for which it has an established operational program.

(3) If a child is admitted by anyone other than a parent or custodian, the shelter documents the attempts to contact the parent or custodian.

(4) Each child and parent or custodian entering the shelter is asked if the child is in good health and taking any type of medication.

(5) Each child in a shelter receives a health screening by an RN or LPN by the child's eighth day of care. However, a documented medical exam performed within the 12 months prior to admission is acceptable when a child is transferred from another licensed facility.

(6) If a resident shows symptoms of illness or injury, the parent or custodian is notified for appropriate action.

(7) Upon admission, the facility documents:

(A) child's name, date of birth, Social Security number, sex, race, tribal affiliation, address, and telephone number;

(B) name of parents or custodian, address, phone number, and place of employment;

(C) date and time of admission;

(D) name, phone number, and address of person responsible for bringing the child to the shelter;

(E) reason for referral;

(F) name of staff person on duty at admission;

(G) school the child attends and grade;

(H) description of the child's physical and emotional condition; and

(I) comments that relate to any circumstances concerning the child's placement.

(f) **Service plan.** Children's shelters are exempt from the rules contained in Section 154(b)(1) regarding service plans. A written service plan is developed and documented for each resident within three days of admission. Children's shelters meet the guidelines contained in Section 154(b)(1)(A) - (B).

(g) **Physical facility.** Children's shelters are exempt from the rules contained in Section 157(b) regarding square footage. Shelters, however, meet the requirements contained in (1) - (5) of this subsection.

(1) Habitable living areas are provided as stated in (2) - (5) of this subsection. This does not include offices, bathrooms, hallways, kitchen, laundry, furnace, utility, or office areas.

(2) There is a total of 100 square feet of habitable living area per resident, including sleeping space.

(3) Each sleeping room for more than one resident contains 50 square feet per occupant.

(4) Each sleeping room intended for one resident contains 80 square feet.

(5) All areas counted as habitable space have a minimum ceiling height of seven feet, six inches.

## **Section 168. Requirements for residential treatment facilities**

- (a) **Residential treatment facilities.** A residential treatment program cares for children under 24-hour medical care with emotional, psychological, or mental disorders.
- (b) **Requirements.** The program complies with the rules in Oklahoma Administrative Code (OAC) 340:110-3-145 through 340:110-3-165.1, except as otherwise provided in this Section.
- (c) **Personnel.** The program:
- (1) complies with the rules regarding personnel, per OAC 340:110-3-153.1; and
  - (2) employs a psychiatrist and adequate medical personnel to meet the residents' medical needs.
- (d) **Supervision of residents.** The program is exempt from the rules, per OAC 340:110-3-153.2 regarding residents' supervision.
- (1) The program employs a sufficient number of personnel as child care workers to adequately supervise and meet residents' needs. Staff members are awake and accessible at all times.
  - (2) The program maintains a ratio of one personnel for:
    - (A) six residents (1:6) during awake hours; and
    - (B) eight residents (1:8) during sleeping hours.
  - (3) When psychiatric residential treatment admission is ordered by a medical doctor, the doors may be locked.
- (e) **Admission.** Within 24-hours of admission, a health care professional reviews and approves the admission assessment.
- (f) **Service planning.** The program is exempt from the rules, per OAC 340:110-3-154(b)(1) and (2) regarding service plans.
- (1) The program meets the requirements in:
    - (A) (1) and (2) of this subsection; and
    - (B) OAC 340:110-3-154(b)(1)(A) and (B) and (b)(2)(B) and (C).
  - (2) A written service plan for each resident is:
    - (A) developed and documented within seven-program business days after admission; and
    - (B) reviewed at least every 30-calendar days thereafter unless required by other licensing or contracted entities.
- (g) **Portable pools.** The program is exempt from the rules, per OAC 340:110-3-163(14)(B). Therapeutic water activities are permitted when prescribed by an attending licensed physician, included in a treatment plan, and provisions are made to ensure hygienic practices. When portable pools are used as a therapeutic activity children are directly supervised at all times. Portable pools are:
- (1) no larger than six feet in diameter; and
  - (2) contain no more than six inches water depth.
- (h) **Discharge procedures.** The program meets the rules, per OAC 340:110-3-154(d) regarding discharge procedures. The program:
- (1) supplies the resident with two weeks' worth of prescribed medication, when appropriate, on discharge; and
  - (2) documents in the resident's file at least one scheduled outpatient follow-up contact within two weeks of discharge.
- (i) **Visitation.** The program is exempt from the rules, per OAC 340:110-3-154.1(b)(2)

regarding visitation restriction reviews. Visitation restrictions are:

- (1) explained to the resident and parents;
- (2) documented in the resident's records; and
- (3) reviewed every seven-calendar days.

(j) **Behavior management.** The program is exempt from the rules, per OAC 340:110-3-154.2(b)(7) and (10), regarding seclusion and restraint. If the program uses seclusion and chemical restraint, it meets the requirements in (1) through (5) of this subsection.

(1) **Seclusion.** Seclusion is only used when less-restrictive interventions, per program policy, were attempted or when an immediate intervention is required to protect the resident, staff member, or others. The resident is released from seclusion when he or she is no longer deemed a risk to self or others. A written incident report is completed within 24-hours following each use of seclusion.

(A) Seclusion is used only with specific verbal authorization of a health care professional. The authorization is written and signed by a health care professional within 24-hours.

(B) While in seclusion, a staff member continuously monitors the resident, either by direct contact or with audiovisual equipment, and directly checks the resident's well-being at least every 15 minutes. The resident receives appropriate medical and psychological services.

(C) The resident has reasonable access to toilet facilities and to all scheduled meals while in seclusion.

(D) As soon as the resident sufficiently gains control and is no longer a serious and immediate danger, the resident is released from seclusion.

(i) Residents 10 years of age and older do not remain in seclusion longer than two hours or a total of six non-consecutive hours within a 24-hour period.

(ii) Residents 9 years of age and younger do not remain in seclusion longer than one hour within a 24-hour period.

(2) **Seclusion room.** A room used for seclusion includes:

(A) at least 60 square feet and a seven foot, six inch ceiling height;

(B) a safety glass window, mirror, or camera allowing for seclusion room full-observation;

(C) no hardware or furnishings obstructing child observation at all times;

(D) no hardware, equipment, or furnishings presenting a physical hazard or suicide risk;

(E) natural or mechanical ventilation;

(F) a temperature between 65 and 85 degrees Fahrenheit;

(G) lighting for all room areas; and

(H) an automatic fire suppression system.

(3) **Mechanical restraint.** Mechanical restraint is not used on children 18 years of age and younger, per OAC 317:30-5-95.39.

(4) **Chemical restraint.** Chemical restraint is only used when less restrictive interventions, per program policy, were attempted or when an immediate intervention is required to protect the resident, personnel, or others. A written incident report is completed within 24-hours following each chemical restraint use.

(A) Chemical restraint is used only with a health care professional's verbal authorization prior to administration. The verbal authorization must be written

and signed by the health care professional within 24-hours.

(B) Chemical restraint is administered in a humane manner.

(C) A staff member continuously monitors the resident, either by direct contact or with audiovisual equipment, and personally checks the resident's well-being every 15 minutes.

(D) The resident receives appropriate medical and psychological services.

(5) **Seclusion and restraint log.** A seclusion and restraint log is maintained, and a report containing all log information is part of the resident's record. The log includes the:

(A) date and time of placement in seclusion or in restraint;

(B) health care professional's name, who is authorizing the restraint or seclusion;

(C) reason for restraint or seclusion and other behavior management techniques attempted;

(D) observation times, including a description of the resident's activity at each observation, and the signature of the person observing the resident; and

(E) time the resident is released from seclusion or restraint.



## **Section 169. Requirements for secure care facilities**

(a) **Secure care facility.** A secure care facility is a facility that cares for and supervises adjudicated children in a building in which voluntary entering and exiting is prohibited through the use of internal or exterior locks or through secure fencing around the perimeter.

(b) **Requirements.** Secure care facilities are required to meet the rules contained in Section 145 through Section 165.1, except as otherwise provided in this Section.

(c) **Supervision of residents.** Secure care facilities meet the requirements contained in Section 153.2 regarding supervision of residents. In addition, staff members remain awake at all times.

(d) **Searches and contraband.** Secure care facilities meet the requirements contained in Section 152(d) regarding required policies. In addition, secure care facilities have written policy and procedure governing searches and control of contraband.

(1) Facility policy and procedure includes, but is not limited to:

- (A) control of contraband;
- (B) searches for contraband;
- (C) property searches;
- (D) searches of the facility; and
- (E) visitor searches.

(2) Residents and visitors are notified that they are subject to search.

(3) No resident is searched beyond what is necessary to maintain proper security.

(4) Searches are conducted by a staff member of the same gender as the resident or visitor being searched.

(e) **Door security.** Secure care facilities meet the requirements for door security contained in (1) - (4) of this subsection.

(1) All doors are kept locked that are security perimeter entrances, exterior doors, and doors that the facility administrator determines should be locked. These doors are unlocked only for admission or exit of residents, employees, visitors, or in case of an emergency.

(2) Doors to vacant units, unoccupied areas, and storage rooms are locked when not in use.

(3) Staff members know what doors must be locked and under what circumstances the doors are opened.

(4) Once a door is locked, it is checked to ensure it is secured.

(f) **Key control.** A secure care facility has a key-control system that includes:

(1) a log, which is available to licensing staff for review, to record the number of keys given out, the location of the lock, the number of keys to that lock, and the names of the employees possessing keys;

(2) a central administrative area from where the keys are issued;

(3) a manner of storage that permits easy determination of either the absence or the presence of the keys;

(4) labeling of all keys and maintenance of at least one duplicate key for each lock; and

(5) fire and emergency keys that are readily accessible.

(g) **Weapons.** Weapons are not permitted beyond a designated area.

(h) **Behavior management.** Secure care facilities are exempt from the rules contained

in Section 154.2(b)(7) and (11) regarding seclusion and mechanical restraint. Facilities that use seclusion and mechanical restraint meet the requirements contained in (1) - (4) of this subsection.

(1) **Seclusion.** Seclusion may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others, or prevent escape. Resident is released from seclusion when resident is no longer deemed a risk to self or others. A written incident report is completed within 24-hours following each use of seclusion.

(A) Seclusion is used only with specific authorization of the executive director, the administrative person in charge, or a health professional.

(B) When a resident is placed in seclusion, an adult staff member continuously monitors the resident, either in person or through audiovisual equipment, and personally checks the resident's well-being every 15 minutes. The resident receives appropriate medical and psychological services.

(C) The resident has reasonable access to toilet facilities and to all scheduled meals while in seclusion.

(D) As soon as the resident sufficiently gains control and is no longer a serious and immediate danger, the resident is released from seclusion. Residents age ten and older do not remain in seclusion longer than three hours or a total of six non-consecutive hours within any 24-hour period. Residents age 9 and under do not remain in seclusion longer than one hour within any 24-hour period.

(2) **Seclusion room.** A room used for seclusion includes:

(A) at least 60 square feet and a ceiling height of seven feet, six inches;

(B) a safety glass window, mirror, or camera that allows for full observation of the seclusion room;

(C) no hardware or furnishings that obstruct observing the child at all times;

(D) no hardware, equipment, or furnishings that present a physical hazard or suicide risk;

(E) means for natural or mechanical ventilation;

(F) means for maintaining a temperature between 65 and 85 degrees Fahrenheit;

(G) lighting for all areas of the room;

(H) an automatic fire suppression system; and

(I) time resident is released from seclusion.

(3) **Mechanical restraint.** Mechanical restraint may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others. Mechanical restraint may be used when transporting a resident in order to prevent escape, to prevent self-injury, to prevent injury to others, to prevent destruction of property, or to prevent inciteful behavior that jeopardizes security.

(A) Mechanical restraint is used on the resident in a comfortable and humane manner.

(B) Resident's hands are not restrained to his or her feet.

(C) Resident is not restrained to an immovable object.

(D) Resident is released from mechanical restraint when resident is no longer deemed a risk to self, others, or at imminent risk of escape.

(E) A written incident report is completed within 24-hours following each use of mechanical restraint.

(4) **Seclusion and mechanical restraint log.** A seclusion and mechanical restraint log is kept, and a report containing all information in the log is part of the resident's record. The log includes:

(A) the date and time of placement in seclusion or the use of mechanical restraint;

(B) the name of the person authorizing the use of seclusion or mechanical restraint;

(C) the reason for the use of mechanical restraint or seclusion and other behavior management techniques attempted;

(D) observation times, including a description of the resident's activity at each observation, and the signature of the person observing the resident; and

(E) time resident is released from seclusion or mechanical restraint.

(i) **Emergency numbers.** A secure care facility is exempt from the rules contained in Section 165(3)(C), regarding posting of emergency telephone numbers. Emergency telephone numbers are readily accessible to staff members.

## **Section 170. Requirements for family-style living programs**

(a) **Family-style living program.** A family-style living program is a residential program providing sustained care and supervision to residents in a home like environment not located in a building used for commercial activity.

(b) **Requirements.** Family-style living programs are required to meet the common requirements in Oklahoma Administrative Code (OAC) 340:110-3-145 through 340:110-3-165.1, unless requirements in this Section state otherwise.

(c) **House parent.** In addition to personnel requirements per OAC 340:110-3-153.1, additional house parent qualifications include:

- (1) residing in the home with residents;
- (2) establishing and modeling a healthy, family environment;
- (3) participating in outings, vacations, and trips away from the program with residents; and
- (4) prohibition from employment outside the program.

(d) **Child-family relationship.** In addition to social services requirements per OAC 340:110-3-154, house parents attempt to strengthen relationships between the children and parents and his or her own family culture by:

- (1) communicating regularly regarding the child's care, education, health, and medical needs;
- (2) supporting and maintaining positive aspects of family members;
- (3) assisting in the development of parent-child relationships by providing resources to the family as requested by the parents; and
- (4) involving the family in program and community events and activities.

(e) **Sibling groups.** In addition to social services requirements per OAC 340:110-3-154, house parents assist residents in maintaining sibling relationships.

(f) **Program policies.** In addition to program requirements per OAC 340:110-3-154.1, program policies identify categories of children well-suited for care in the family-style living program setting.

(g) **Program.** In addition to program requirements per OAC 340:110-3-154.1, house parents, program personnel, or both ensure residents have an availability of opportunities, on a regular basis, both on- and off-site, as listed in (1) through (3) of this subsection.

(1) **Community involvement.** Residents participate in programs and organizations, as well as recreational, social, educational, and extracurricular community events and activities. Participation is based on individual resident's interests and ability.

(2) **Life-skills.** House parents assist residents in acquiring transitional skills necessary to succeed interdependently in adulthood, such as:

- (A) pursuit of a driver license;
- (B) employment education and preparedness;
- (C) money and household management;
- (D) opportunity to earn and manage income;
- (E) participation in family responsibilities and age-appropriate household chores;
- (F) meal planning with food preparation and serving;
- (G) social skills; and
- (H) internet safety.

(3) **Peer relations.** Residents are encouraged to participate in appropriate

relationships both at school and in the community. Opportunities are expanded and supported, including dating and peer contact.

(h) **Meal time.** In addition to food and nutrition requirements per OAC 340:110-3-154.4, meals are routinely served in a family-style dining setting with residents and house parents eating together.

(i) **Physical facility and furnishings.** In addition to physical facility and equipment requirements per OAC 340:110-3-157, family-style living programs are designed to promote a family environment between residents and house parents. Common areas, including living, dining, kitchen, laundry, and outside play areas, are designed and furnished to encourage family-style interactions. Semi-private bedrooms and study areas are included with provisions made for supervision.

## SUPPLEMENT I

### OKLAHOMA CHILD CARE FACILITIES LICENSING ACT Sections 401 through 420 of Title 10 of the Oklahoma Statutes (Amended with 2019 legislation)

#### Section 401- Purpose and Policy- Minimum Standards

A. Sections 401 through 418 of this title shall be known and may be cited as the "Oklahoma Child Care Facilities Licensing Act".

B. It is the declared purpose and policy of the Oklahoma Child Care Facilities Licensing Act, to:

1. Ensure maintenance of minimum standards for the care and protection of children away from their own homes;
2. Encourage and assist the child care facility toward maximum standards; and
3. Work for the development of sufficient and adequate services for child care through joint work of public, private and voluntary agencies. Whenever possible, child care facilities should help to preserve and restore family life for children.

C. In order to provide care for children in child care facilities, a license shall be obtained from the Department of Human Services, which is issued on the basis of meeting minimum standards which are essential for the health and welfare of the child or children placed for care with such agencies and individuals.

D. The Child Care Facilities Licensing Division within the Department of Human Services shall work with representatives from municipalities to develop a single child care licensure procedure for use by state and local entities.

#### Section 402- Definitions

As used in the Oklahoma Child Care Facilities Licensing Act:

1. "Adult" means an individual eighteen (18) years of age or older;
2. "Child" or "minor" means any person who has not attained the age of eighteen (18) years;
3. "Child care center" means a program that operates thirty (30) or more hours per week;
4. "Child care facility" means any public or private child care residential facility, child-placing agency, foster family home, child care center, part-day program, out-of-school time program, day camp, drop-in program, program for sick children, family child care home, or large family child care home providing either full-time or part-time care for children away from their own homes;
5. "Child-placing agency" means an agency that arranges for or places a child in a foster family home, adoptive home, or independent living program;
6. "Foster family home" means the private residence of a family which provides foster care services to a child, and includes a specialized foster home, a therapeutic foster family home, or a kinship care home;
7. "Foster parent eligibility assessment" includes a criminal background investigation, including, but not limited to, a national criminal history records search based upon the submission of fingerprints, a home assessment, and any

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other assessment required by the Department of Human Services, the Office of Juvenile Affairs, or any child-placing agency pursuant to the provisions of Section 1-7-106 of Title 10A of the Oklahoma Statutes. A foster parent eligibility assessment shall be similar to the procedures used by the Department of Public Safety for determining suitability of an individual for employment as a highway patrol officer;

8. "Department" means the Department of Human Services;

9. "Division" means the section within the Department that is assigned responsibilities pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act;

10. "Family child care home" means a family home which provides care and supervision for seven or fewer children for part of the twenty-four-hour day. The term "family child care home" shall not include informal arrangements which parents make independently with neighbors, friends, and others, or with caretakers in the child's own home;

11. "Full-time care" means continuous care given to a child beyond a minimum period of twenty-four (24) hours;

12. "Large family child care home" means a residential family home which provides care and supervision for eight to twelve children for part of the twenty-four-hour day;

13. "Part-day child care program" means a program that provides care and supervision for children and that operates for more than fifteen (15) and up to thirty (30) hours per week;

14. "Program" means the business entity that provides care, supervision, and learning opportunities for children;

15. "Rap back" means a notification from the Oklahoma State Bureau of Investigation to the Department of subsequent criminal activity of individuals whose criminal background checks have been completed pursuant to the requirements of the Oklahoma Child Care Facilities Licensing Act;

16. "Residential child care facility" means a twenty-four-hour residential facility where children live together with or are supervised by adults who are not their parents or relatives;

17. "Responsible entity" means an individual who is authorized to obligate the business; and

18. "Specialized service professional" means an individual from an academic discipline or field of expertise who provides individualized services to a child, such as behavioral or physical therapists.

### Section 403- Exemptions

- A. The provisions of the Oklahoma Child Care Facilities Licensing Act shall not apply to:
1. Care provided in a child's own home or by relatives;
  2. Informal arrangements which parents make with friends or neighbors for the occasional care of their children;
  3. Care provided by an attorney-in-fact authorized by Section 700 of this title who exercises parental or legal authority on a continuous basis for not less than

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- twenty-four (24) hours and without compensation for the intended duration of the power of attorney;
4. Programs in which school-aged children three (3) years of age and older are participating in home-schooling;
  5. Programs that serve children three (3) years of age and older and that are operated during typical school hours by a public school district;
  6. Programs that serve children three (3) years of age and older and that are operated during typical school hours by a private school that offers elementary education in grades kindergarten through third grade;
  7. Summer youth camps, summer programs or after-school programs for children who are at least four (4) years of age, that are accredited by a national standard-setting agency or church camp accreditation program, or are accredited by, chartered by or affiliated with a national non-profit organization;
  8. Programs in which children attend on a drop-in basis and parents are on the premises and readily accessible;
  9. A program of specialized activity or instruction for children that is not designed or intended for child care purposes including, but not limited to, scouts, 4-H clubs and summer resident youth camps, programs that limit children from enrolling in multiple sessions because of the type of activity or ages accepted and single-activity programs such as academics, athletics, gymnastics, hobbies, art, music, dance and craft instruction;
  10. Any child care facility that:
    - a. provides care and supervision for fifteen (15) or fewer hours per week,
    - b. operates less than ten (10) weeks annually,
    - c. operates in the summer for less than eight (8) hours per day, or
    - d. provides care and supervision for school-aged children only in a center-based program for twenty-one (21) or fewer hours a week and is located in a county with a population of less than one hundred thousand (100,000) according to the latest Federal Decennial Census;
  11. Facilities whose primary purpose is medical treatment;
  12. Boarding schools that have education as their primary purpose and that are recognized as accredited by the State Board of Education. To be exempt, such programs shall:
    - a. have classroom facilities that are not used for residential living,
    - b. not have been granted nor have assumed legal custody of any child attending the facility, and
    - c. adhere to standard educational holiday and seasonal recess periods to permit students reasonable opportunities to return to their primary places of residence with parents or legal guardians;
  13. Day treatment programs and maternity homes operated by a licensed hospital;
  14. Juvenile facilities certified by the Office of Juvenile Affairs or certified by any other state agency authorized by law to license such facilities;
  15. A program where children are not enrolled by the parents and are free to come and go;
  16. A program in tribal land as defined at 25 U.S.C.A. 1903 (10); and



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17. A program on a military base or federal property.
- B. The provisions of the Oklahoma Child Care Facilities Licensing Act shall be equally incumbent upon all private and public child care facilities.

### Section 404- Minimum Requirements and Desirable Standards

A. 1. The Department of Human Services, in consultation with the Oklahoma Commission on Children and Youth, shall appoint advisory committees of representatives of child care facilities and others to recommend minimum requirements and desirable standards for promulgation by the Department.

2. Committee members shall be appointed for a three-year term, with a two-consecutive-term limit. The committees shall include representation for all categories of facilities licensed by the Department and shall be comprised as follows:

a. the Residential Children's Services subcommittee shall include at a minimum:

- (1) a representative of a statewide organization representing children in care arrangements outside their own home,
- (2) a representative of a statewide organization providing residential services to youth in state custody,
- (3) a recipient or former recipient of youth services for children in state custody,
- (4) a representative of a statewide organization promoting adoption services,
- (5) a parent or guardian providing foster care to a child or children in state custody,
- (6) a representative from a nonpublic, long-term residential care facility for children in state custody,
- (7) a representative from an organization promoting the interests of Native American children in state custody,
- (8) a provider of medical services for children,
- (9) a practicing behavioral health services provider,
- (10) a representative from an agency providing child-placing services, and
- (11) other appropriate representatives at the discretion of the Department of Human Services and Commission on Children and Youth,

b. the Child Care Centers subcommittee shall include at a minimum:

- (1) a representative of a statewide organization advocating for children in care arrangements outside their own home,
- (2) a representative of a statewide organization conducting programs for school-age children,
- (3) a parent or guardian with a child attending a licensed child care facility,
- (4) a representative of a licensed child care facility in a rural area,
- (5) a representative of a statewide organization advocating for licensed child care facilities owned or operated by Native Americans,

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- (6) a representative of a licensed child care facility in an urban/suburban area,
  - (7) a representative of a statewide organization advocating for programs provided under the Head Start program,
  - (8) a representative with knowledge of child care programs offered by career technology center in this state,
  - (9) a representative of a statewide organization advocating for early childhood education programs,
  - (10) a representative of a statewide organization providing resources and referrals to child care facilities,
  - (11) a provider of medical services for children, and
  - (12) other appropriate representatives at the discretion of the Department of Human Services and Commission on Children and Youth,
- c. the Child Care Homes subcommittee shall include at a minimum:
- (1) a representative of a statewide organization advocating for children in care arrangements outside their own home,
  - (2) a parent or guardian with a child receiving care at a licensed child care home,
  - (3) a representative of a licensed child care home in a rural area,
  - (4) a representative of a statewide organization advocating for licensed child care facilities owned or operated by Native Americans,
  - (5) a representative of a licensed child care home in an urban/suburban area,
  - (6) a representative of a statewide organization advocating for early childhood education programs,
  - (7) a representative of a statewide organization providing resources and referrals to child care facilities,
  - (8) a provider of medical services for children, and
  - (9) other appropriate representatives at the discretion of the Department of Human Services and Commission on Children and Youth, and
- d. the Quality Rating and Improvement System subcommittee shall include representatives of child care centers and child care homes currently licensed by the State and other members as determined by the Department of Human Services and the Commission on Children and Youth.
3. The Department shall create a Child Care Facility Peer Review Board whose purpose shall be to participate in the Department's grievance process. A majority of the Board shall be representatives of child care facilities. The Department shall promulgate rules specifying the duties of the Child Care Facility Peer Review Board in the grievance process.
4. The advisory committee shall designate two people to serve on the Department's Stars Administrative Review Panel. At least one designee shall be the owner or operator of a licensed child care center.

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B. Child care facilities shall not allow children to be left alone in the care of any person under eighteen (18) years of age without supervision or sixteen (16) years of age with supervision as delineated by the Department's rules. Child care centers and family child care homes shall not:

1. Use soft or loose bedding, including, but not limited to, blankets, in sleeping equipment or in sleeping areas used only for infants;
2. Allow toys or educational devices in sleeping equipment or in a sleeping area used only for infants; or
3. Place a child in sleeping equipment or in a sleeping area which has not been previously approved for use as such by the Department.

C. The Department shall promulgate rules establishing minimum requirements and desirable standards as may be deemed necessary or advisable to carry out the provisions of the Oklahoma Child Care Facilities Licensing Act.

D. Such rules shall not be promulgated until after consultation with the State Department of Health, the State Department of Education, the Oklahoma State Bureau of Investigation, the State Fire Marshal, the Commission on Children and Youth, the Oklahoma Department of Mental Health and Substance Abuse Services and any other agency deemed necessary by the Department. Not less than sixty (60) days' notice, by regular mail, shall be given to all current licensees before any changes are made in such rules.

E. In order to improve the standards of child care, the Department shall advise and cooperate with licensees, the governing bodies and staff of licensed child care facilities and assist the staff through advice of progressive methods and procedures, and suggestions for the improvement of services.

F. The Department may participate in federal programs for child care services, and enter into agreements or plans on behalf of the state for that purpose, in accordance with federal laws and regulations.

### **Section 404.1- Criminal History Records Search and Child Care Restricted Registry for Individual Applying to Establish or Operate Child Care Facility**

A. On and after November 1, 2013:

1. Prior to the issuance of a permit or license, owners and responsible entities making a request to establish or operate a child care facility shall have:
  - a. an Oklahoma State Courts Network search conducted by the Department,
  - b. a Restricted Registry search conducted by the facility,
  - c. a national criminal history records search conducted pursuant to paragraph 10 of this subsection,
  - d. a criminal history records and sex offender registry search conducted by an authorized source, when the individual has lived outside this state within the last five (5) years,
  - e. a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act and conducted by the Department of Human Services,

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- f. a search of any available child abuse and neglect registry within a state the individual has resided in within the last five (5) years,
  - g. search of the nontechnical services worker abuse registry maintained by the State Department of Health pursuant to Section 1-1950.7 of Title 63 of the Oklahoma Statutes, and
  - h. a search of the community services worker registry maintained by the Department of Human Services pursuant to Section 1025.3 of Title 56 of the Oklahoma Statutes;
2. Prior to the employment of an individual:
- a. an Oklahoma State Courts Network search, conducted by the Department, shall be requested and received by the facility; provided however, if twenty-four (24) hours has passed from the time the request to the Department was made, the facility may initiate employment, notwithstanding the provisions of this paragraph,
  - b. a Restricted Registry search shall be conducted by the facility with notification of the search submitted to the Department,
  - c. a national criminal history records search pursuant to paragraph 10 of this subsection shall be submitted,
  - d. a criminal history records and sex offender registry search conducted by an authorized source, when the individual has lived outside this state within the last five (5) years, shall be submitted to the Department,
  - e. a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act shall be conducted by the Department and received by the facility,
  - f. a search of any available child abuse and neglect registry within a state the individual has resided in within the last five (5) years,
  - g. search of the nontechnical services worker abuse registry maintained by the State Department of Health pursuant to Section 1-1950.7 of Title 63 of the Oklahoma Statutes, and
  - h. a search of the community services worker registry maintained by the Department of Human Services pursuant to Section 1025.3 of Title 56 of the Oklahoma Statutes;
3. Prior to allowing unsupervised access to children by employees or individuals, including contract employees and volunteers and excluding the exceptions in paragraph 8 of this subsection:
- a. Oklahoma State Courts Network search results, conducted by the Department, shall be received by the facility,
  - b. a Restricted Registry search shall be conducted by the facility with notification of the search submitted to the Department,
  - c. national criminal history records search results pursuant to paragraph 10 of this subsection shall be received by the facility,
  - d. a criminal history records and sex offender registry search conducted by an authorized source, when the individual has lived outside this state within the last five (5) years shall be submitted to the Department,

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- e. a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act shall be conducted by the Department and received by the facility,
  - f. a search of any available child abuse and neglect registry within a state the individual has resided in within the last five (5) years,
  - g. search of the nontechnical services worker abuse registry maintained by the State Department of Health pursuant to Section 1-1950.7 of Title 63 of the Oklahoma Statutes, and
  - h. a search of the community services worker registry maintained by the Department of Human Services pursuant to Section 1025.3 of Title 56 of the Oklahoma Statutes;
4. Prior to the issuance of a permit or license and prior to the residence of adults who subsequently move into a facility, adults living in the facility excluding the exception in paragraph 7 of this subsection shall have:
- a. an Oklahoma State Courts Network search conducted by the Department and the facility shall be in receipt of the search results,
  - b. a Restricted Registry search conducted by the facility with notification of the search submitted to the Department,
  - c. a national criminal history records search conducted pursuant to paragraph 10 of this subsection,
  - d. a criminal history records and sex offender registry search conducted by an authorized source, when the individual has lived outside this state within the last five (5) years,
  - e. a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act conducted by the Department and received by the facility,
  - f. a search of any available child abuse and neglect registry within a state the individual has resided in within the last five (5) years,
  - g. search of the nontechnical services worker abuse registry maintained by the State Department of Health pursuant to Section 1-1950.7 of Title 63 of the Oklahoma Statutes, and
  - h. a search of the community services worker registry maintained by the Department of Human Services pursuant to Section 1025.3 of Title 56 of the Oklahoma Statutes;
5. Children who reside in the facility and turn eighteen (18) years of age excluding the exception in paragraph 7 of this subsection shall have:
- a. an Oklahoma State Courts Network search conducted by the Department,
  - b. a Restricted Registry search conducted by the facility with notification of the search submitted to the Department,
  - c. a national criminal history records search conducted pursuant to paragraph 10 of this subsection, and
  - d. a search of the Department of Corrections' files pursuant to the Sex Offenders Registration Act conducted by the Department and received by the facility;

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6. Prior to review of or access to fingerprint results, owners, responsible entities, directors, and other individuals who have review of or access to fingerprint results shall have a national criminal history records search pursuant to paragraph 10 of this subsection;
7. Provisions specified in paragraphs 4 and 5 of this subsection shall not apply to residents who are receiving services from a residential child care facility;
8. A national criminal history records search pursuant to paragraph 10 of this subsection shall not be required for volunteers who transport children on an irregular basis when a release is signed by the parent or legal guardian noting their understanding that the volunteer does not have a completed national criminal history records search. The provisions in paragraph 3 of this subsection shall not be required for specialized service professionals who are not employed by the program and have unsupervised access to a child when a release is signed by the parent or legal guardian noting his or her understanding of this exception. These exceptions shall not preclude the Department from requesting a national fingerprint or an Oklahoma State Bureau of Investigation name-based criminal history records search or investigating criminal, abusive, or harmful behavior of such individuals, if warranted;
9. A national criminal history records search pursuant to paragraph 10 of this subsection shall be required on or before November 1, 2016, for existing owners, responsible entities, employees, individuals with unsupervised access to children, and adults living in the facility, as of November 1, 2013, unless paragraph 6 of this subsection applies;
10. The Department shall require a national criminal history records search based upon submission of fingerprints that shall:
  - a. be conducted by the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes and the federal National Child Protection Act and the federal Volunteers for Children Act with the Department as the authorized agency,
  - b. be submitted and have results received between the Department and the Oklahoma State Bureau of Investigation through secure electronic transmissions,
  - c. include Oklahoma State Bureau of Investigation rap back, requiring the Oklahoma State Bureau of Investigation to immediately notify the Department upon receipt of subsequent criminal history activity, and
  - d. be paid by the individual or the facility;
11. The Director of the Department, or designee, shall promulgate rules that may authorize an exception to the fingerprinting requirements for individuals who have a severe physical condition which precludes such individuals from being fingerprinted;
12. The Director of the Department, or designee, shall promulgate rules that ensure individuals obtain a criminal history records search, not to include the re-submission of fingerprints, not less than once during each five (5) year period;
13. Any individual who refuses to consent to the criminal background check or knowingly makes a materially-false statement in connection with such criminal

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background check shall be ineligible for ownership of, employment of or residence in a child care facility; and

14. The Office of Juvenile Affairs shall require national criminal history records searches, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes, which shall be provided by the Oklahoma State Bureau of Investigation for the purpose of obtaining the national criminal history records search, including Rap Back notification of and through direct request by the Office of Juvenile Affairs on behalf of any:

- a. operator or responsible entity making a request to establish or operate a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by the Office of Juvenile Affairs,
- b. employee or applicant of a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by the Office of Juvenile Affairs, or
- c. persons allowed unsupervised access to children, including contract employees or volunteers, of a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by the Office of Juvenile Affairs.

B. 1. a. On and after September 1, 1998:

(1) any child-placing agency contracting with a person for foster family home services or in any manner for services for the care and supervision of children shall also, prior to executing a contract, complete:

(a) a foster parent eligibility assessment for the foster care provider except as otherwise provided by divisions (2) and (4) of this subparagraph, and

(b) a national criminal history records search based upon submission of fingerprints for any adult residing in the foster family home through the Department of Human Services pursuant to the provisions of Section 1-7-106 of Title 10A of the Oklahoma Statutes, except as otherwise provided by divisions (2) and (4) of this subparagraph,

(2) the child-placing agency may place a child pending completion of the national criminal history records search if the foster care provider and every adult residing in the foster family home has resided in this state for at least five (5) years immediately preceding such placement,

(3) a national criminal history records search based upon submission of fingerprints to the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the foster family home,

(4) provided, however, the Director of Human Services or the Director of the Office of Juvenile Affairs, or a designee, may authorize an exception to the fingerprinting requirement for a person residing in the home who has a severe physical condition which precludes such person's being fingerprinted, and

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- (5) any child care facility contracting with any person for foster family home services shall request the Office of Juvenile Affairs to conduct a juvenile justice information system review, pursuant to the provisions of Sections 2-7-905 and 2-7-308 of Title 10A of the Oklahoma Statutes, for any child over the age of thirteen (13) years residing in the foster family home, other than a foster child, or who subsequently moves into the foster family home. As a condition of contract, the child care facility shall obtain the consent of the parent or legal guardian of the child for such review.
- b. The provisions of this paragraph shall not apply to foster care providers having a contract or contracting with a child-placing agency, the Department of Human Services or the Office of Juvenile Affairs prior to September 1, 1998. Such existing foster care providers shall comply with the provisions of this section, until otherwise provided by rules of the Department or by law.
2. a. (1) On and after September 1, 1998, except as otherwise provided in divisions (2) and (4) of this subparagraph, prior to contracting with a foster family home for placement of any child who is in the custody of the Department of Human Services or the Office of Juvenile Affairs, each Department shall complete a foster parent eligibility assessment, pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act, for such foster family applicant. In addition, except as otherwise provided by divisions (2) and (4) of this subparagraph, the Department shall complete a national criminal history records search based upon submission of fingerprints for any adult residing in such foster family home.
- (2) The Department of Human Services and Office of Juvenile Affairs may place a child pending completion of the national criminal history records search if the foster care provider and every adult residing in the foster family home has resided in this state for at least five (5) years immediately preceding such placement.
- (3) A national criminal history records search based upon submission of fingerprints conducted by the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the foster family home.
- (4) The Director of Human Services or the Director of the Office of Juvenile Affairs or their designee may authorize an exception to the fingerprinting requirement for any person residing in the home who has a severe physical condition which precludes such person's being fingerprinted.
- b. The provisions of this paragraph shall not apply to foster care providers having a contract or contracting with a child-placing agency, the Department of Human Services or the Office of Juvenile Affairs prior to September 1, 1998. Such existing foster care providers shall comply with the provisions of this section, until otherwise provided by rules of the Department or by law.
3. The Department of Human Services or the Office of Juvenile Affairs shall provide for a juvenile justice information system review pursuant to Section 2-7-308 of Title 10A of the Oklahoma Statutes for any child over the age of thirteen (13) years



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residing in a foster family home, other than the foster child, or who subsequently moves into the foster family home.

C. The Department or the Board of Juvenile Affairs shall promulgate rules to identify circumstances when a criminal history records search or foster parent eligibility assessment for an applicant or contractor, or any person over the age of thirteen (13) years residing in a private residence in which a child care facility is located, shall be expanded beyond the records search conducted by the Oklahoma State Bureau of Investigation or as otherwise provided pursuant to this section.

D. Except as otherwise provided by the Oklahoma Children's Code and subsection F of this section, a conviction for a crime shall not be an absolute bar to employment, but shall be considered in relation to specific employment duties and responsibilities.

E. 1. Information received pursuant to this section by an owner, administrator, or responsible entity of a child care facility, shall be maintained in a confidential manner pursuant to applicable state and federal laws.

2. The information, along with any other information relevant to the ability of the individual to perform tasks that require direct contact with children, may be released to another child care facility in response to a request from the child care facility that is considering employing or contracting with the individual unless deemed confidential by state and federal laws.

3. Requirements for confidentiality and recordkeeping with regard to the information shall be the same for the child care facility receiving the information in response to a request as those provided for in paragraph 1 of this subsection for the child care facility releasing such information.

4. Information received by any facility certified by the Office of Juvenile Affairs may be released to another facility certified by the Office if an individual is being considered for employment or contract, along with any other relevant information, unless the information is deemed confidential by state or federal law. Any information received by the Office shall be maintained in a confidential manner pursuant to applicable state and federal law.

F. 1. It shall be unlawful for individuals who are required to register pursuant to the Sex Offenders Registration Act to work with or provide services to children or to reside in a child care facility and for any employer who offers or provides services to children to knowingly and willfully employ or contract with, or allow continued employment of or contracting with individuals who are required to register pursuant to the Sex Offenders Registration Act. Individuals required to register pursuant to the Sex Offenders Registration Act who violate any provision of Section 401 et seq. of this title shall, upon conviction, be guilty of a felony punishable by incarceration in a correctional facility for a period of not more than five (5) years and a fine of not more than Five Thousand Dollars (\$5,000.00) or both such fine and imprisonment.

2. Upon a determination by the Department of any violation of the provisions of this section, the violator shall be subject to and the Department may pursue:

- a. an emergency order,
- b. license revocation or denial,
- c. injunctive proceedings,

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- d. an administrative penalty not to exceed Ten Thousand Dollars (\$10,000.00), and
  - e. referral for criminal proceedings.
3. In addition to the penalties specified by this section, the violator may be liable for civil damages.

### **Section 404.2- Demarion's Law**

This act shall be known and may be cited as "Demarion's Law".

### **Section 404.3- Mandatory Liability Insurance Requirements for Child Care Facility- Reports-Rules- Notices-Exempt Facilities and Agencies- Failure to Comply**

A. A child care facility shall maintain general liability insurance coverage as defined by Section 707 of Title 36 of the Oklahoma Statutes of at least Two Hundred Thousand Dollars (\$200,000.00) for each occurrence of negligence. An insurance policy or contract required under this section shall cover injury to a child due to negligence that occurs while the child is in the care of the child care facility.

B. The Department of Human Services shall promulgate rules providing for a standard form to be signed and dated by an insurance agent licensed in this state stating that the child care facility has an unexpired and uncanceled insurance policy or contract of at least Two Hundred Thousand Dollars (\$200,000.00) that meets the requirements of this section. This form shall be completed annually and shall be maintained by the child care facility. Upon request, the form shall be made available to the Department to determine compliance with licensing requirements.

C. Should the child care facility for financial reasons or for lack of availability of an underwriter willing to issue a policy be unable to secure the insurance required under subsection A of this section, should the policy limits be exhausted, or if the child care facility reports self-insurance in accordance with state law the child care facility shall:

1. Post a conspicuous notice at the facility indicating the facility does not have liability insurance coverage pursuant to this section or reports self-insurance in accordance with state law;
2. Notify the Department that coverage is not provided or that the facility reports self-insurance in accordance with state law; and
3. Keep a form signed by the parent or legal guardian of each child that he or she has been told that the child care facility does not carry at least Two Hundred Thousand Dollars (\$200,000.00) of general liability insurance.

D. The Department shall promulgate rules providing for a standard notice form for the facility to post which indicates the facility does not carry liability insurance or reports self-insurance in accordance with state law. The form required pursuant to paragraph 1 of subsection C of this section shall be:

1. Printed with lettering that is legible and in at least three-fourths-inch boldfaced type;
2. Placed at the main entrance of the facility in a conspicuous location; and
3. Copied and provided to the parent or legal guardian of each child under supervision of the child care facility.

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- E. In no case shall the inability to secure coverage serve to indemnify the child care facility due to negligence.
- F. The insurance policy or contract shall be maintained at all times in an amount as required by this section, except as provided for in subsection C of this section.
- G. Each child care facility shall maintain a copy of the most recent compliance file onsite. The Department shall promulgate rules providing for a standard notice form for the facility to post which indicates:
1. The facility has a copy of the most recent compliance files onsite for inspection upon request of a parent or guardian of each child under the supervision of the child care facility; and
  2. Such files are also made available for public inspection by the Department.
- H. The forms required pursuant to this subsection shall be:
1. Printed with lettering that is legible and in at least three-fourths-inch boldfaced type;
  2. Placed at the main entrance of the facility in a conspicuous location; and
  3. Copied and provided to the parent or legal guardian of each child under supervision of the child care facility.
- I. The requirements for posting provided by subsection D and G of this section shall not apply to:
1. Licensed child-placing agencies;
  2. Licensed residential child care facilities; or
  3. Department-certified child care facilities.
- J. The Department may promulgate rules requiring liability insurance for facilities listed in subsection I of this section.
- K. Failure by a child care facility to comply with the provisions of this section is grounds for suspension or revocation of the child care facility license under the Oklahoma Child Care Facilities Licensing Act.
- L. The Department shall promulgate rules to implement the provisions of this section.

### **Section 405- License and Permit Requirements for Child Care Facilities- Application- Issuance**

- A. No child care facility may be operated or maintained in this state, unless licensed or temporarily authorized by the Department of Human Services, except for the shelters certified by the Office of Juvenile Affairs pursuant to Section 2-7-202 of Title 10A of the Oklahoma Statutes; No new child care facility may be established without the prior approval of the Department, which shall be granted only after the Department is satisfied that the facility will meet minimum standards for a license to operate.
- B. The Department shall not grant approval for a permit, or a license for a new child care facility to receive and care for children until:
1. All background investigation requirements are met pursuant to Section 404.1 of this title; and
  2. All required training including, but not limited to, cardiopulmonary resuscitation (CPR), first aid, health and safety training, and minimum education requirements

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pursuant to licensing requirements have been completed for any person left alone with children.

C. The incorporation or domestication of a corporation organized for the purpose of operating a child care facility shall not exempt such corporation from compliance with the provisions of Sections 401 through 418 of this title.

D. An application for a license shall be made on forms provided by the Department and in the manner prescribed. Temporary authorization may be granted to allow the Department to investigate the activities and standards of care of the applicant. The Department may issue a license once it is satisfied that the applicant meets the requirements as provided in Sections 401 through 418 of this title. All licenses shall be in force unless revoked as authorized by Section 407 of this title.

### **Section 405.1- Comprehensive Oklahoma State Plan for Child Care**

A. The Department of Human Services shall collaborate with other appropriate agencies to develop a comprehensive Oklahoma state plan for child care.

B. The comprehensive plan shall:

1. Meet all requirements for child care state plans as periodically determined by the United States Department of Health and Human Services Administration for Children and Families Child Care Bureau; and
2. Be submitted to the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Senate on a biannual basis.

### **Section 405.2- Public Online Database- Licensed Child Care Centers and Child Care Homes**

A. The Department of Human Services shall promulgate rules to establish and maintain an online database accessible to the public that contains information including, but not limited to:

1. The name, address, and phone number of all child care centers licensed by the Department of Human Services, and the name, address, and phone number of all child care homes licensed by the Department; and
2. A summary of substantiated complaint records and inspection reports generated by the Department.

B. Child care licensing records and inspection reports shall be maintained by the facility and be posted or made available to individuals pursuant to the licensing requirements promulgated by the Department.

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### Section 405.3- Child Care Restricted Registry

A. The Department of Human Services shall promulgate rules to establish and maintain the Restricted Registry, accessible to the public through an online database, to address:

1. A procedure for recording individuals on the restricted registry resulting from:
  - a. a substantiated finding of abuse or neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, by an individual when the abuse or neglect occurred to a child while in the care of a facility licensed, certified, operated or contracted by or with the Department or the Office of Juvenile Affairs. The provisions of this subparagraph shall apply to:
    - (1) the Central Oklahoma Juvenile Center, the Oklahoma Juvenile Center for Girls and the Southwest Oklahoma Juvenile Center upon the effective date of this act, and
    - (2) facilities licensed by, certified by or contracting with the Office of Juvenile Affairs after November 1, 2018.
  - b. a revocation or denial of a child care facility license, and
  - c. a specified criminal history of an individual, as defined by rules promulgated by the Department;
2. A procedure to provide notice and an opportunity for review prior to recording an individual on the restricted registry;
3. Disclosure requirements for information on the restricted registry; and
4. A procedure to prohibit licensure, ownership, employment, unsupervised access to children or residence in a facility or program licensed, certified, operated or contracted with by the Department or the Office of Juvenile Affairs.

B. The Restricted Registry shall include, but not be limited to:

1. The full name of the individual;
2. Information necessary to identify the individual; and
3. The date the individual was recorded on the restricted registry.

C. Nothing in this section shall be construed as to permit the placement of an operator of a child care facility on the Restricted Registry unless the operator:

1. Is the subject of a substantiated finding of child abuse or neglect;
2. Has been subject to a revocation or denial of a child care facility license; or
3. Has a specified criminal history, as defined by rules promulgated by the Department.

### Section 405.4- Educational Requirements for Director of Child Care Center- Minimum Size of Rooms Occupied by Infants

A. Any person with a bachelor's degree or postgraduate degree shall be considered as having met the educational requirements for a director of a full-time child care center required by the Department of Human Services. Nothing in this section shall be construed as to affect annual continuing education requirements. The director of a child care center may also qualify as a master teacher for children of all ages.

B. Any person replacing a master teacher at a child care center shall be granted a one-year probationary period to fulfill the educational qualifications required by the

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Department for a master teacher. The Department may extend the probationary period an additional year as long as the person is actively pursuing that goal.

C. Licensed child care facilities opened or expanded before November 1, 2016, shall have thirty-five (35) square feet of floor area per infant in rooms occupied only by infants. New construction and existing space not previously licensed for child care after November 1, 2016, shall have forty (40) square feet of floor area per infant in rooms occupied only by infants.

### **Section 405.5- Authorization of Certain Persons to Operate Child Care Facilities- Notice and Conditions**

A. An individual who inherits or purchases a licensed child care facility and operates the facility with the same personnel employed by the previous owner may continue to operate the facility under the same license and at the same star rating as the previous owner for a period of ninety (90) calendar days.

B. The Department of Human Services shall be notified of any change of ownership of a licensed child care facility by the next Department of Human Services business day and prior to the new owner assuming operations of the facility.

C. If individuals who receive ownership of a licensed child care facility through purchase or inheritance have met all requirements for owners of child care facilities by the end of the ninety-calendar-day period established in subsection A of this section, they may continue to operate the facility at the same star rating. If all requirements have not been met, the facility may not care for children until the facility is authorized to do so by the Department.

D. Nothing in this section shall be construed as prohibiting the Department from exercising its authority to revoke the license of a child care facility as provided in Section 407 of Title 10 of the Oklahoma Statutes during the ninety-calendar-day period established in subsection A of this section.

### **Section 406- Investigations and Visitation**

A. 1. Except as provided in paragraph 2 of this subsection, the Department of Human Services shall have authority at any reasonable time to investigate and examine the conditions of any child care facility in which a licensee or applicant hereunder receives and maintains children, and shall have authority at any time to require the facility to provide information pertaining to children in its care.

2. When the Department of Human Services is reviewing the star rating of a child care program with a capacity of fifty or more, the comprehensive visit to inspect and examine the program shall be scheduled with the administration of the program at least one (1) week in advance of the visit, if requested by the child care facility.

B. 1. The State Department of Health may visit any licensee or applicant at the request of the Department to advise on matters affecting the health of children and to inspect the sanitation of the buildings used for their care.

2. The State Fire Marshal may visit any licensee or applicant at the request of the Department to advise on matters affecting the safety of children and to inspect the condition of the buildings used for their care.

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C. 1. Upon receipt of a complaint against any child care facility alleging a violation of the provisions of the Oklahoma Child Care Facilities Licensing Act, or any licensing standard promulgated by the Department, the Department shall conduct a full investigation. If upon investigation, it is determined that there are reasonable grounds to believe that a facility is in violation of the Oklahoma Child Care Facilities Licensing Act or of any standard or rule promulgated pursuant thereto, the Department shall:

- a. document the complaint,
- b. provide the complaint allegations in writing to the facility involved and, upon written request by the child care facility, provide a summary of the facts used to evaluate the completed complaint, and
- c. document the facility's plan for correcting any substantiated violations.

2. If the Department determines there has been a violation and the violation has a direct impact on the health, safety or well-being of one or more of the children cared for by the facility, the Department shall notify the facility and require correction of the violation.

3. The Department shall notify the facility that failure to correct the confirmed violation can result in the revocation of the license, the denial of an application for a license, the issuance of an emergency order or the filing of an injunction pursuant to the provisions of Section 409 of this title.

4. If the facility refuses to correct a violation or fails to complete the plan of correction, the Department may issue an emergency order, revoke the license, or deny the application for a license. Nothing in this section or Section 407 of this title shall be construed as preventing the Department from denying an application, revoking a license, or issuing an emergency order for a single violation of this act, or the rules of the Department as provided in Section 404 of this title.

D. Upon the completion of the investigation of a complaint against any child care facility alleging a violation of the provisions of the Oklahoma Child Care Facilities Licensing Act or any licensing standard promulgated thereto by the Department, the Department shall clearly designate its findings on the first page of the report of the investigation. The findings shall state whether the complaint was substantiated or unsubstantiated.

E. Information obtained by the Department or Oklahoma Child Care Services concerning a report of a violation of a licensing requirement, or from any licensee regarding children or their parents or other relatives shall be deemed confidential and privileged communications, shall be properly safeguarded, and shall not be accessible to anyone except as herein provided, unless upon order of a court of competent jurisdiction. Provided, however, this provision shall not prohibit the Department from providing a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits parents to evaluate the facility.

F. The Department shall promulgate rules to establish and maintain a grievance process that shall include an anonymous complaint system for reporting and investigating complaints or grievances about employees of the Department who retaliate against a child care facility or facility employee.

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### **Section 406.1- Indian Tribal Child Care Facility Electing Licensure Under Oklahoma Child Care Facilities Licensing Act- Agreement for State Inspection**

A. If an Indian tribe in this state that operates a child care facility elects to apply for a license for the facility pursuant to the Oklahoma Child Care Facilities Licensing Act, the Department of Human Services, the State Department of Health, and the State Fire Marshal may enter into an agreement with the Indian tribe to allow the state to conduct any inspections of the facility necessary to comply with the licensing provisions of the Oklahoma Child Care Facilities Licensing Act.

B. As part of the agreement authorizing the state to conduct inspections as provided in this section, the state and the Indian tribe may agree to a payment of a fee by the Indian tribe to the state in an amount not to exceed the reasonable cost to the state to conduct the inspections.

### **Section 407- Revocation or Denial of Issuance of License**

A. The Department of Human Services may revoke or deny issuance of the license of any child care facility found to be in violation of any provision of this act or the rules of the Department, as provided in Section 404 of this title.

B. 1. No license shall be revoked or issuance denied unless and until such time as the licensee or applicant shall have been given at least thirty (30) days' notice in writing of the grounds of the proposed revocation or denial.

2. At the time the facility is given notice in writing of the revocation or denial of a license, the Department shall also advise parents of children attending the facility and the child care resource and referral organization within one (1) business day of such action by verbal, electronic, or written notification and the posting of an announcement in the facility.

3. If the revocation or denial is protested within thirty (30) days of receipt of notice, by writing addressed to the Department, the Department, or its authorized agency, shall conduct a hearing at which an opportunity shall be given to the licensee or applicant to present testimony and confront witnesses.

4. Notice of the hearing shall be given to the licensee or applicant by personal service or by delivery to the proper address by certified mail, return receipt requested, at least two (2) weeks prior to the date thereof.

5. If notice of the proposed revocation or denial of a license is not protested, the license shall be revoked or denied.

C. 1. Nothing in this section or Section 406 of this title shall be construed as preventing the Department from taking emergency action as provided by this subsection.

2. For the purposes of this subsection, "emergency" means a situation that poses a direct and serious threat to the health, safety, or welfare of any child cared for by the facility.

3. Whenever the Department finds, after an investigation, that an emergency exists requiring immediate action to protect the health, safety, or welfare of any child cared



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for by a facility licensed, authorized, or providing unlicensed care except as exempted by the provisions of the Oklahoma Child Care Facilities Licensing Act, the Department may without notice or hearing issue an emergency order stating the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency including, when necessary, removing children from the facility and prohibiting the facility from providing services to children pending a hearing on the matter.

a. An emergency order shall be effective immediately. Any person to whom an emergency order is directed shall comply with the emergency order immediately but, upon written request to the Department on or before the tenth day after receipt of the emergency order, shall be afforded a hearing on or before the tenth day after receipt of the request by the Department.

b. On the basis of such hearing, the Department shall continue the order in effect, revoke it, or modify it.

c. Any person aggrieved by the order continued after the hearing provided for in this subsection may appeal to the district court of the area affected within ten (10) days. The appeal when docketed shall have priority over all cases pending on the docket, except criminal cases.

D. The Department shall establish a process to review the initial determination of the closure of a facility due to an emergency pursuant to the licensing requirements promulgated by the Department.

E. The Department shall continue to monitor any facility whose license has been revoked, denied, or who has had an emergency order issued for a period of thirty (30) days after the action becomes final.

F. In addition to any other remedy authorized by this act, a CLEET-certified officer may issue a citation for a violation of any provision of this act or rules of the Department as provided in Section 404 of this title. The fine shall not be less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for every day the facility maintains and receives children after:

1. An emergency order has been issued; or
2. An application for a license has been denied or the license has been revoked.

G. One-half (1/2) of the funds collected pursuant to subsection F of this section shall be deposited in the Quality of Care Development Fund established in Section 10 of this act and one-half (1/2) shall be retained by the law enforcement agency represented by the CLEET-certified officer.

### **Section 408- Appeals**

A. Any licensee or applicant aggrieved by the decision of the Department of Human Services under Section 407 of this title may, within ten (10) days after the revocation or denial of the license, appeal to the district court of the county in which the child care facility is maintained and operated by filing with the clerk of the court a verified petition. Notice of such appeal shall be served on the Director of the Department within five (5) days of the date of its filing.

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B. The licensee or applicant shall, within twenty (20) days of the filing of the appeal, file with the clerk of such court a transcript of the proceedings held pursuant to Section 407 of this title. The district court shall thereupon be vested with jurisdiction to review the proceedings of the Department; provided that, if the Department prevails, the judgment of the district court shall be that the decision of the Department be affirmed, and if the licensee or applicant prevails, the judgment of the court shall be that the revocation be set aside or the license issued or renewed, as the case may be. Pending the hearing of the appeal, the action of the Department revoking or denying the license or the granting thereof shall be stayed; provided, after the filing of an appeal, the district court, upon application by the Department and after an appropriate hearing, may grant a restraining order to enforce the decision of the Department.

### **Section 409- Injunction**

Any person or child care facility may be enjoined from maintaining and operating such facility for violations of any provisions of this act by suit brought in the name of the state by the Attorney General of Oklahoma or by a district attorney.

### **Section 410- Violations- Punishment**

Any person or agent, representative, or officer of any child care facility who violates any of the provisions of the Oklahoma Child Care Facilities Licensing Act shall, upon conviction, be deemed guilty of a misdemeanor and punished in accordance with the provisions of Section 10 of Title 21 of the Oklahoma Statutes. Whenever any agent, representative, or officer of any child care facility shall be convicted under authority of this act, such conviction shall be sufficient ground for the revocation of the entity's license.

### **Section 410.1- Quality of Care Development Fund**

There is established in the State Treasury a revolving fund to be known as the "Quality of Care Development Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all fines collected by the Department of Human Services pursuant to Section 407 of this title and shall, in addition to any other monies made available for such purpose, be available to the Director solely to support the continued improvement of the child care facilities in this state. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

### **Section 411- Certificate of Immunizations as Condition for Admission to Day Care Facility- Waiver**

A. No person, firm, corporation, partnership or other legal entity operating a day care center or day care home in this state shall cause or permit a minor child two (2) months of age or older to be admitted to such facility unless and until the parent, guardian, or other related person of such child presents certification from a licensed physician or authorized representative of any state or local department of public health that such child has received or will receive immunization at the medically appropriate time against

## SUPPLEMENT I

diphtheria, pertussis, tetanus, haemophilus influenzae type B (HIB), measles (rubeola), rubella, hepatitis A, varicella, and poliomyelitis; or presents such certification that the child is likely to be immune as a result of the disease. Provided, however, that in the event the parent, guardian, or other person presenting a child for admission to a day care center or day care home certifies in writing that a family emergency exists, the requirement imposed by this section may be waived for a period not to exceed thirty (30) days. Such certification shall be made prior to the provision of care. No such waiver shall be knowingly permitted more than once for any child.

B. The State Board of Health, by rule, may alter the list of immunizations required under this section after notice and hearing. Any change in the list of immunizations required shall be submitted to the next regular session of the Legislature and such change shall remain in force and effect unless and until a concurrent resolution of disapproval is passed. Hearings shall be conducted by the State Board of Health, or such officer, agents or employees as the State Board of Health may designate for that purpose. The State Board of Health shall give appropriate notice of the proposed change in the list of immunizations required and of the time and place for hearing. The change shall become effective on a date fixed by the State Board of Health. Any change in the list of immunizations required may be amended or repealed in the same manner as provided for its adoption. Proceedings pursuant to this subsection shall be governed by the Administrative Procedures Act.

### **Section 412- Manner and Frequency of Immunizations- Enforcement of Act**

A. The immunizations required by this act, and the manner and frequency of their administration, as prescribed by the State Board of Health, shall conform to recognized standard medical practices in this state. The State Department of Health shall supervise and secure the enforcement of the required immunization program.

B. The Department of Human Services shall render reasonable assistance to the State Department of Health in the enforcement of the provisions of this act. This assistance shall be in the form of revocation or denial of the license of any facility not in compliance with this act.

### **Section 413- Exemptions**

Any minor child, through his or her parent or guardian, may submit to the health authority charged with the enforcement of the immunization laws, a certificate of a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child; or upon receipt of a written statement by the parent or guardian objecting to such immunizations because of religious or other reasons, then such child shall be exempt from the provisions of this act.

### **Section 414- Administration of Immunizations- Persons Eligible- Indigent Persons**

The immunizations shall be administered by, or under the direction of, a licensed physician, or by any local or state health department. If the parent or guardian is unable

## **SUPPLEMENT I**

to pay, the State Department of Health shall provide, without charge, the immunization materials required by this act.

### **Section 415- Child with Reportable Contagious Disease to be Excluded from Day Care Facility**

Any child afflicted with a reportable contagious disease shall be excluded from attending a day care center or day care home until such time as the period of communicability has elapsed as determined by a licensed physician or health department official. Such exclusion shall be reported to a local health department official.

### **Section 418- Authority to Obtain Evidence- Administration of Oaths**

When conducting investigations of complaints as provided in this article, the Department of Public Welfare shall have the power to summon any person to appear and produce such books and papers as shall be designated in the summons, and to give testimony under oath concerning the matter and institution under investigation. The Department shall have the power to administer oaths to such persons as may be summoned and to enforce all such powers as are given to notaries public when they are taking depositions.

### **Section 420- Child Care Center Bill of Rights- Documentation of Training Compliance**

The Child Care Center Bill of Rights includes if a child care center or employee provides written documentation of completion of required training, the child care center shall not be found in noncompliance if computer documentation is not updated by the training provider.

## SUPPLEMENT II

### WHAT IS CHILD ABUSE?

**What is the Law?** Oklahoma statutes define child abuse as harm or threatened harm to a child's health or welfare by a person responsible for the child. This includes non-accidental physical or mental injury, sexual abuse or neglect (10A O.S. § 1-2-101).

- Physical abuse is non-accidental physical injury to a child.
- Mental injury is an injury to a child's psychological growth and development. It is caused by a chronic pattern of behaviors, such as belittling, humiliating and ridiculing a child.
- Sexual abuse, in general terms, includes any sexual activity between an adult and a child for the purpose of sexually stimulating the adult, the child or others. Sexual abuse may also be committed by a person under the age of 18 when that person is either significantly older than the victim or is in a position of power or control over the child.
- Neglect is the failure of the parent or caretaker to provide a child with basic needs such as food, clothing, shelter, medical care, protection and supervision.
- Threatened harm means a substantial risk of harm to the child. It may include acts or expressions of intent to inflict actual harm presently or in the future.

**Who must report?** Every person, private citizen or professional, who has reason to believe that a child has been abused, is mandated by law to promptly report suspected abuse. Failure to do so is a misdemeanor. A person making a report in good faith is immune from civil or criminal liability. The name of the reporter is kept confidential.

**When to report?** A report should be made when there is reasonable cause to believe that a child has been abused or neglected or is in danger of being abused. A report of suspected abuse is a request for an investigation. Investigation of child abuse reports is the responsibility of Child Welfare workers and, when a crime may have been committed, law enforcement officials.

If other incidents of abuse occur after the initial report has been made, another report should be made.

**How is abuse reported?** A report may be made to the 24-hour statewide Child Abuse and Neglect Hotline, 1-800-522-3511.

## **SUPPLEMENT III**

### **CHILD PASSENGER RESTRAINT SYSTEM**

Oklahoma Statute  
47 O.S. Section 11-1112  
(Amended 06-06-17)

A. Every driver, when transporting a child under eight (8) years of age in a motor vehicle operated on the roadways, streets, or highways of this state, shall provide for the protection of said child by properly using a child passenger restraint system as follows:

1. A child under four (4) years of age shall be properly secured in a child passenger restraint system. Except as provided in subsection G of this section, the child passenger restraint system shall be rear-facing until the child reaches two (2) years of age or until the child reaches the weight or height limit of the rear-facing child passenger restraint system as allowed by the manufacturer of the child passenger restraint system, whichever occurs first; and

2. A child at least four (4) years of age but younger than eight (8) years of age, if not taller than 4 feet 9 inches in height, shall be properly secured in either a child passenger restraint system or child booster seat.

For purposes of this section and Section 11-1113 of this title, "child passenger restraint system" means an infant or child passenger restraint system which meets the federal standards as set by 49 C.F.R., Section 571.213.

B. If a child is eight (8) years of age or is taller than 4 feet 9 inches in height, a seat belt properly secured to the vehicle shall be sufficient to meet the requirements of this section.

C. The provisions of this section shall not apply to:

1. The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to state or federal laws;

2. The driver of an ambulance or emergency vehicle;

3. The driver of a vehicle in which all of the seat belts are in use;

4. The transportation of children who for medical reasons are unable to be placed in such devices, provided there is written documentation from a physician of such medical reason; or

5. The transportation of a child who weighs more than forty (40) pounds and who is being transported in the back seat of a vehicle while wearing only a lap safety belt when the back seat of the vehicle is not equipped with combination lap and shoulder safety belts, or when the combination lap and shoulder safety belts in the back seat are being used by other children who weigh more than forty (40) pounds. Provided, however, for purposes of this paragraph, back seat shall include all seats located behind the front

## **SUPPLEMENT III**

seat of a vehicle operated by a licensed child care facility or church. Provided further, there shall be a rebuttable presumption that a child has met the weight requirements of this paragraph if at the request of any law enforcement officer, the licensed child care facility or church provides the officer with a written statement verified by the parent or legal guardian that the child weighs more than forty (40) pounds.

D. A violation of the provisions of this section shall be admissible as evidence in any civil action or proceeding for damages unless the plaintiff in such action or proceeding is a child under sixteen (16) years of age.

In any action brought by or on behalf of an infant for personal injuries or wrongful death sustained in a motor vehicle collision, the failure of any person to have the infant properly restrained in accordance with the provisions of this section shall not be used in aggravation or mitigation of damages.

E. A person who is certified as a Child Passenger Safety Technician and who in good faith provides inspection, adjustment, or educational services regarding child passenger restraint systems shall not be liable for civil damages resulting from any act or omission in providing such services, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

F. Any person convicted of violating subsection A of this section shall be punished by a fine of Fifty Dollars (\$50.00) and shall pay all court costs thereof. Revenue from such fine shall be apportioned to the Department of Public Safety Restricted Revolving Fund and used by the Oklahoma Highway Safety Office to promote the use of child passenger restraint systems as provided in Section 11-1113 of this title. This fine shall be suspended and the court costs limited to a maximum of Fifteen Dollars (\$15.00) in the case of the first offense upon proof of purchase or acquisition by loan of a child passenger restraint system. Provided, the Department of Public Safety shall not assess points to the driving record of any person convicted of a violation of this section.

G. A driver of a vehicle who has been rightfully issued a detachable placard indicating physical disability under the provisions of Section 15-112 of this title or a physically disabled license plate under the provisions of Section 1135.1 or 1135.2 of this title and valid letter of forward-facing exemption issued from the Department of Public Safety shall be permitted to transport a child passenger under four (4) years of age in a forward-facing child passenger restraint system. The placard and forward-facing exemption letter must be present in the vehicle to be in compliance.

## SUPPLEMENT III

### CHILD PASSENGER SAFETY IN OKLAHOMA

#### Most Frequently Asked Questions

- **What is the purpose and intent of the child passenger restraint law?**

Car crashes are the number one cause of injury and death to children in Oklahoma. A 45-lb. child in a 30-mph crash will be thrown with a force of 1,350 lbs. Fortunately, child safety seats provide a 45-70 percent reduction in significant injuries, depending on the type of seat that is used (booster seat, convertible seat, infant seat, etc.).

- **What are the statistics on death or serious injuries in Oklahoma?**

More than 20 children under 6 years of age die each year in motor vehicle crashes, and more than 1,100 children are injured, many permanently. More than 70 percent of children who die are not in a child safety seat.

- **What does the law require?**

Children under the age of 8 must be transported using a car seat or booster seat.

All children under age 4 must be properly secured in a car seat with an internal harness.

- A 5-point harness is the safest restraint system and should be used as long as possible (until the child exceeds the harness' weight limit).

Children under age 2 must be properly secured in a rear-facing car seat.

- Rear-facing is the safest way for small children to travel, and they should remain rear-facing until they reach 2 years of age or until they exceed the height or weight limit of the car seat.
- Riding rear-facing with legs bent or against the back of the seat is a safe and comfortable position for children. This position best protects their head, neck and spinal cord in the event of a crash.

Children ages 4-7 must ride in a child passenger restraint system or booster seat unless they are taller than 4'9".

- **Are there exemptions to the law that affect child care facilities?**



## SUPPLEMENT III

Exemptions include:

- school buses, over 10,000 lbs., or any vehicle not required by law to be equipped with seat belts; and
  - medical issues prohibiting use of belt or restraint system.
- 
- **What about older vehicles that do not have shoulder belts in the back seat? What about the center back seat position, which usually does not include a shoulder belt?**

Belt positioning booster seats require the use of a lap/shoulder belt. There are only a few seats that do not. For this reason, an exemption was included in the law. The law “shall not apply to . . . the transportation of a child who weighs more than 40 lbs. and who is being transported in the back seat of a vehicle while wearing only a lap safety belt when the back seat of the vehicle is not equipped with combination lap and shoulder safety belts, or when the combination lap and shoulder safety belts in the back seat are being used by other children who weigh more than 40 lbs.”

While lengthy, the exemption was worded this way in part to prevent a motorist from placing a 4- or 5-year-old child in the center lap belt with no booster seat, with empty lap/shoulder belts on either side. This wording closes that loophole for motorists who would deliberately attempt to skirt the law.

- **Are there different types of booster seats?**

Booster seats for children over 40 lbs. (about 4 years old) generally fall into two categories: backless boosters and high-back boosters. Both are considered "belt-positioning" boosters, because they help to properly position the lap belt on the child's lap and hip bones, rather than the abdomen.

High-back boosters are recommended for positions in vehicles that do not have head rests (usually older vans and pickup trucks). Both seats achieve the same thing: they boost the child high enough so that the seat belt fits properly.

Both require the use of a lap/shoulder belt.

- **What are some important facts to remember considering the transportation of children?**

## SUPPLEMENT III

Be sure that any booster seat, car seat or infant seat is used according to the manufacturer's instructions.

Ensure that the type of passenger restraint system is used properly with the type of seat belt system that is installed in your vehicle.

Remember to verify the particular car seat is appropriate for the specific height and weight of the child that is being transported.

- **What resources are available to help low-income families obtain booster seats?**

Some county health departments distribute free seats, mostly to WIC-eligible clients. SAFE KIDS offers subsidized seats to families who receive public assistance. The cost to the client is \$10 per car seat. Car seats are distributed during community car seat events to eligible families on a first-come, first-served basis. Contact Safe Kids for a list of events in your area.

- **Where can I receive more information regarding transportation safety of children?**

For more information, call Oklahoma SAFE KIDS Coalition at 405-945-6709 or visit their website at <http://www.safekidsok.org/>.

## SUPPLEMENT IV

### IMMUNIZATION REQUIREMENTS FOR CHILD CARE

#### **Law**

Section 411 of Title 10 of the Oklahoma Statutes mandates children attending child care obtain, at the medically appropriate time, the Required Immunization Schedule vaccines.

#### **Law Exemptions**

Exemptions from the law are allowed for medical, religious, and personal reasons. Summaries are below, including procedures for obtaining exemptions and exclusions.

**Medical.** For exemptions based on medical reasons, Oklahoma State Department of Health (OSDH) Form ODH 216A, Certificate of Exemption, must be signed by a licensed physician and state the child's physical condition is such that a particular immunization would endanger the life or health of the child. The parent is responsible for obtaining the signature of the physician.

**Religious.** For exemptions based on religious reasons, an ODH 216A must be signed by a parent or religious leader or a written statement signed by a parent or religious leader may be attached to the Certificate of Exemption.

**Personal.** For exemptions based on personal beliefs, an ODH 216A must be signed by a parent and include a brief written statement summarizing his or her objections to immunizations.

**Exemption Procedures.** Programs willing to enroll an unimmunized child based on an exemption, obtain Form ODH 216A from the OSDH Immunization Service, 1-800-234-6196. Parents complete the form, obtain the required signatures, and return it to the program. Programs review the form for proper completion and signatures, keep a copy in place of an immunization record, and send a copy to the OSDH Immunization Service for approval.

**Exclusion of exempt children during outbreaks.** If there is an outbreak of a vaccine-preventable disease, programs may be required to exclude unimmunized children based on exemptions or family emergencies. The exclusion may be a lengthy period of time. The Commissioner of Health makes this decision and the program would be contacted by a representative of the health department. The program is responsible for informing the parent of this possibility at the time the Certificate of Exemption is accepted by the program.

**Family Emergencies.** This provision applies in rare instances when a true family emergency exists, such as a death in the family. A program may allow a child to enter and remain for up to 30 calendar days, without an immunization record. However, a dated and signed parent statement is required. The record must be provided at the earliest possible opportunity. If at the end of 30 days an up-to-date record has not been provided, the program must exclude the child. No child may receive this waiver more than once.

## SUPPLEMENT IV

### Required Immunization Schedule

**Due** Immunizations are due according to this Required Immunization Schedule, unless there are late dose revisions (see next page).

Dose due that month.      Dose due at the end of the age range, but may be given anytime during the age range.

E = Late Dose Exceptions (see next page)

**Past Due** Immunizations are past due the month following the age due.

	Birth	2 Mos.	4 Mos.	6 Mos.	12 Mos.	15 Mos.	18 Mos.	23 Mos.	***	4 – 6 Years
<b>Hep B</b>	<input type="checkbox"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>DTaP</b>	<input type="checkbox"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Hib*</b>	<input type="checkbox"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>IPV</b>	<input type="checkbox"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>MMR</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Varicella**</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>PCV</b>	<input type="checkbox"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Hep A***</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\* **Hib** may be complete with three or four doses depending on the vaccine brand used

\*\* **Varicella** vaccine is not required, if a parent or treating medical physician statement states the child had Chickenpox

\*\*\* **Hep A dose 2** is due six to 18 months after dose one

Refer to the Oklahoma State Department of Health website for the immunization schedule required for children seven years of age and older.

## SUPPLEMENT IV

### Late Doses = Revised Due Dates

When a dose is received late, the remaining doses may have a different due date than shown on the Required Immunization Schedule.

All remaining doses are due one to two months after the previous dose, unless:

- the schedule allows more time; or
- if one of these exceptions (E) apply.
  - DTaP dose 4** is due six to 12 months after dose three
  - Hep A dose 2** is due six to 18 months after dose one

### Late Doses = Revised Number of Doses

When a dose is received late, usually the same number of doses is required. However, fewer doses may be required once a child reaches a certain age if one of these exceptions (E) applies.

#### Hib

- If one dose is given at 15 months of age or older, regardless of the number of previous doses received, no more doses are required.
- If a child is 5 years of age or older, no doses are required.

#### PCV

- If two doses are given at 12 months of age or older, regardless of the number of previous doses received, no more doses are required.
- If one dose is given at 24 months of age or older, regardless of previous doses received, no more doses are required.
- If a child is 5 years of age or older, no doses are required.

### Vaccine Names and Combination Vaccines

Use this chart to determine what vaccines have been received. Combination vaccines have two or more vaccines in one shot.

Vaccine	Disease	Vaccine Brand Names and Abbreviations
Hep B	Hepatitis B	Comvax, HBV, Hep B Pediatric, Engerix-B, Pediarix, Recombivax
DTaP	Diphtheria, Tetanus, & Pertussis (Whooping Cough)	Daptacel, DT, DTP, Infanrix, Kinrix, Pediarix, Pentacel, TriHIBit
Hib	Haemophilus Influenzae Type B	ActHIB (PRP-T), Comvax, HbCV, HbOC, Hib conjugate, Hiberix, Pedvax HIB (PRP-OMP), Pentacel, TriHIBit
IPV	Polio	Kinrix, OPV, Pediarix, Pentacel
MMR	Measles, Mumps, & Rubella	M-M-R II, MMRV, ProQuad
Varicella	Chickenpox	MMRV, ProQuad, VAR, Varivax
PCV	Pneumococcal	PCV 7 or 13, Pneumococcal Conjugate, Prevnar
Hep A	Hepatitis A	HAV, Havrix, Vaqta

## SUPPLEMENT V

### MINIMUM QUANTITIES FOR FOOD BASED MENUS – BREAKFAST

Meal Component	Required			Option
	Ages 1-2	Preschool	Grades K-12	Grades 7-12
<b>Milk (Fluid)</b> <i>As a beverage, on cereal</i>	1/2 cup	3/4 cup	8 fl. oz.	8 fl. oz.
<b>Juice/Fruit/Vegetable</b> <i>Fruit and/or Vegetable; or full-strength fruit juice or vegetable juice</i>	1/4 cup	1/2 cup	1/2 cup	1/2 cup
<b>Select one serving from each of the following components or two from one component:</b>				
<b>Grains/Breads</b> <i>One of the following or an equivalent combination:</i>				
Whole grain or enriched bread	1/2 slice	1/2 slice	1 slice	1 slice
Whole grain or enriched biscuit/roll, muffin, etc.	1/2 serving	1/2 serving	1 serving	1 serving
Whole grain, enriched or fortified cereal	1/4 cup or 1/3 oz.	3/4 cup or 1/2 oz.	3/4 cup or 1 oz.	3/4 cup or 1 oz. <i>Plus an additional Serving of one of the grains/bread above</i>
<b>Meat or Meat Alternates:</b>				
Meat/Poultry or fish	1/2 oz.	1/2 oz.	1 oz.	1 oz.
Cheese	1/2 oz.	1/2 oz.	1 oz.	1 oz.
Eggs (large)	1/2	1/2	1/2	1/2
Peanut butter or other nut or seed butters	1 Tablespoon	1 Tablespoon	1 Tablespoon	1 Tablespoon
Cooked dry beans and peas	2 Tablespoons	2 Tablespoons	4 Tablespoons	4 Tablespoons
Yogurt	1/4 cup	1/4 cup	1/2 cup	1/2 cup
Nuts and/or seeds <i>(as listed in program guidance*)</i>	1/2 oz.	1/2 oz.	1 oz.	1 oz.
<p><i>* No more than 1 oz. of nuts and/or seeds may be served in any one meal.</i></p> <p><b>Adopted from the RCCI Food Service Manual – Revised 1998</b></p>				

## SUPPLEMENT V

### MINIMUM QUANTITIES FOR FOOD BASED MENUS – LUNCH AND SUPPER

Meal Component	Required				Option
	Ages 1-2	Preschool	Grades K-6	Grades 7-12	Grades K-3
<b>Milk</b> (as beverage)	6 fl. oz.	6 fl. oz.	8 fl. oz.	8 fl. oz.	8 fl. oz.
<b>Meat or Meat Alternate</b> (Quantity of the edible portion as served)					
<i>Lean meat, poultry, or fish</i>	1 oz.	1 1/2 oz.	2 oz.	2 oz.	1 1/2 oz.
<i>Cheese</i>	1 oz.	1 1/2 oz.	2 oz.	2 oz.	1 1/2 oz.
<i>Large egg</i>	1/2	3/4	1	1	3/4
<i>Cooked dry beans or peas</i>	1/4 cup	3/8 cup	1/2 cup	1/2 cup	3/8 cup
<i>Peanut butter or other nut or seed butters</i>	2 Tablespoons	3 Tablespoons	4 Tablespoons	4 Tablespoons	3 Tablespoons
<i>Yogurt</i>	1/2 cup	3/4 cup	1 cup	1 cup	3/4 cup
<b><i>The following may be used to meet no more than 50% of the requirement and must be used in combination with any of the above:</i></b>					
Peanuts, soynuts, tree nuts or seeds, as listed in program guidance, or an equivalent quantity of any combination of the above meat/meat alternate (1 oz. Of nuts/seeds = 1 oz. Of cooked lean meat, poultry, or fish)	1/2 oz. =50%	3/4 oz. =50%	1 oz. =50%	1 oz. =50%	3/4 oz. =50%
<b>Vegetables/Fruits</b> (2 or more servings of vegetables or fruits or both)	1/2 cup	1/2 cup	3/4 cup plus extra 3/4 cup over a week*	1 cup	3/4 cup
<b>Grains/Bread</b> Must be enriched or whole grain. A serving is a slice of bread or an equivalent serving of biscuits, rolls, etc., or 1/2 cup cooked rice, macaroni, noodles, other pasta products or cereal grains.	7 servings per week*	12 servings per week*	17 servings per week*	21 servings per week*	14 servings per week*
	Minimum of 1/2 per day**	Minimum of 1 per day**	Minimum of 1 per day**	Minimum of 1 per day**	Minimum of 1 per day**
*For the purpose of this chart, a week equals seven days. **Up to one grains/breads serving per day may be a dessert. Adopted from the RCCI Food Service Manual – Revised 1998					

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## REVISIONS TO REQUIREMENTS FOR RESIDENTIAL FACILITIES

Requirements reflect revisions to *Licensing Requirements for Residential Child Care Facilities*.

November 1, 2020                      Governor approves proposed requirement revisions.

November 1, 2020                      Effective date of revisions.



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